LABOR LAWS

OF THE

STATE OF CALIFORNIA

1911

STATE OF CALIFORNIA

SECOND SPECIAL REPORT

OF THE

BUREAU OF LABOR STATISTICS

Rooms 806-811 Mechanics Building,
948 Market Street, San Francisco

LABOR LAWS OF CALIFORNIA

COMPILED BY

JOHN P. McLAUGHLIN, Commissioner

SACRAMENTO
W. W. SHANNON - - - SUPT. STATE PRINTING
1911

BUREAU OF LABOR STATISTICS,

SAN FRANCISCO, CALIFORNIA.

At the session of the Legislature during the early part of 1911, so many new labor laws were enacted and old laws amended, that we deemed it necessary to revise our last edition of 1910 in order to present the laws as they now stand upon the statute books of the State.

The book herewith presented contains all of the laws included in former editions, and is brought up to date with laws enacted by the Legislature of 1911.

The amended statutes will be found in their regular code classification, with amendments inserted, while the new statutes will be found in the section designated "Statutes of 1911."

We have been pleased to note an ever increasing interest in labor and labor legislation by people in all the various walks of life, as evidenced by growing requests for publications and information at this Bureau.

JOHN P. McLAUGHLIN,
Commissioner.

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SEC. 3. No Chinese shall be employed on any state, county, municipal, or other public work, except in punishment for crime Employment on public works.

SEC. 4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the state, and the legislature shall discourage their immigration by all means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this state, and all contracts for coolie labor shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labor, shall be subject to such penalties as the legislature may prescribe. The legislature shall delegate all necessary power to the incorporated cities and towns of this state for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this state of Chinese after the adoption of this constitution. This section shall be enforced by appropriate legislation. Coolieism prohibited. Authority of cities and towns.

ARTICLE 20.

Hours of labor on public works.

SEC. 17. The time of service of all laborers or workmen or mechanics employed upon any public works of the State of California, or of any county, city and county, city, town, district, township, or any other political subdivision thereof, whether said work is done by contract or otherwise, shall be limited and restricted to eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life and property, or except to work upon public, military, or naval works or defenses in time of war, and the legislature shall provide by law that a stipulation to Eight hours a day's work. Exception.

this effect shall be incorporated in all contracts for public works and prescribe proper penalties for the speedy and efficient enforcement of said law.

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POLITICAL CODE.

Rates of wages of employees of state printing office.

SEC. 531. The duties of the superintendent of state printing shall be as follows: * * * He shall employ such compositors, pressmen, and assistants as the exigency of the work from time to time requires, and may at any time discharge such employes: *Provided*, that at no time shall he pay said compositors, pressmen, or assistants a higher rate of wages than is paid by those employing printers in Sacramento for like work. He shall at no time employ more compositors or assistants than the absolute necessities of the state printing may demand, and he shall not permit any other than state work to be done in the state printing office. * * * [Enacted March 12, 1872.] Prevailing rates of wages the limit.

Time to vote to be allowed employees.

SEC. 1212. Any person entitled to vote at a general election held within this state shall, on the day of such election, be entitled to absent himself from any service or employment in which he is then engaged or employed for the period of two consecutive hours, between the time of opening and the time of closing the polls; and such voter shall not, because of so absenting himself, be liable to any penalty, nor shall any deduction be made on account of such absence from his usual salary or wages. [Enacted March 12, 1872.] Two hours to be allowed.

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SEC. 2545. * * * No person not a citizen of the United States shall be employed either as a contractor or laborer on any work done under this article [relating to San Francisco harbor]. And eight hours shall constitute a legal day's work, whether performed directly for the state or for the person or persons receiving a contract under this article. [Enacted March 12, 1872.] Citizens preferred. Eight-hour day.

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SEC. 2671. Corporations, or other employers of persons in any road district subject to road tax, are chargeable for road poll tax assessed against their employees to the extent of any credit in their hands not exceeding such tax: *Provided*, the road overseer shall first give notice to such employer, or the managing agent of such corporation, and from the time of such notice, the amount of any credit in his hands, or that shall thereafter accrue sufficient to satisfy said tax, shall be paid to the road tax collector, whose receipt shall be evidence in bar of the prosecution of any action by the employee against the principal for the recovery of the same. [Enacted Stats. 1883, p. 12.]

Proviso.

Employment of intemperate drivers on public conveyances.

Employment forbidden.

SEC. 2932. No person must employ to drive any vehicle for the conveyance of passengers upon any public highway, a person addicted to drunkenness, under penalty of five dollars for every day such person is in his employment. [Enacted March 12, 1872.]

Discharge required.

SEC. 2933. If any driver, whilst actually employed in driving any such vehicle, is intoxicated to such a degree as to endanger the safety of his passengers, the owner on receiving from any such passenger a written notice of the fact, verified by his oath, must forthwith discharge such driver; and if he has such driver in his service within six months after such notice, he incurs a like penalty. [Enacted March 12, 1872.]

Trade-marks of trade unions.

SEC. 3200. Any trade union, labor association, or labor organization, organized and existing in this state, whether incorporated or not, may adopt and use a trade-mark and affix the same to any goods made, produced or manufactured by the members of such trade union, labor association, or labor organization, or to the box, cask, case, or package containing such goods, and may record such trade-mark by filing or causing to be filed with the secretary of state its claim to the same, and a copy or description of such trade-mark, with the affidavit of the president of such trade union, labor association, or labor organization, certified to by any officer authorized to take acknowledgment of conveyances, setting

forth that the trade union, labor association, or labor organization, of which he is the president is the exclusive owner, or agent of the owner, of such trade-mark; and all the provisions of article three, chapter seven, title seven, part three, of the Political Code, are hereby made applicable to such trade-mark. [Enacted, Stats. 1887, p. 167.]

SEC. 3201. The president or other presiding officer of any trade union, labor association, or labor organization, organized and existing in this state, which shall have complied with the provisions of the preceding section, is hereby authorized and empowered to commence and prosecute in his own name any action or proceedings he may deem necessary for the protection of any trade-mark adopted or in use under the provisions of the preceding section, or for the protection or enforcement of any rights or powers which may accrue to such trade union, labor association, or labor organization by the use or adoption of such trade-mark. [Enacted, Stats. 1887, p. 168.]

Contract work on public buildings prohibited.

SEC. 3233. All work done upon the public buildings of this state must be done under the supervision of a superintendent, or state officer or officers having charge of the work, and all labor employed on such buildings, whether skilled or unskilled, must be employed by the day, and no work upon any of such buildings must be done by contract. [Enacted March 12, 1872.]

Work to be done by day's labor.

Products of Chinese labor not to be bought by state officials.

SEC. 3235. No supplies of any kind or character, "for the benefit of the state, or to be paid for by any moneys appropriated or to be appropriated by the state," manufactured or grown in this state, which are in whole or in part the product of Mongolian labor, shall be purchased by the officials for the state having the control of any public institution under the control of the state, or of any county, city and county, city, or town thereof. [Stats. 1887, p. 171.]

Public supplies not to be product of Chinese labor.

Hours of labor.

SEC. 3244. Eight hours of labor constitutes a day's work, unless it is otherwise expressly stipulated by the parties to a

Eight hours a day's work, when.

contract, except those contracts within the provisions of sections three thousand two hundred and forty-six, three thousand two hundred and forty-seven, and three thousand two hundred and forty-eight of this code. [Enacted, March 12, 1872.]

Street railways.

SEC. 3246. Twelve hours' labor constitutes a day's work on the part of drivers and conductors, and gripmen of street cars for the carriage of passengers. Any contract for a greater number of hours' labor in one day shall be and is void, at the option of the employee, without regard to the terms of employment, whether the same be by the hour, day, week, month, or any other period of time, or by or according to the trip or trips that the car may, might, or can make between the termini of the route, or any less distance thereof. Any and every person laboring over twelve hours in one day as driver, or conductor, or gripman, on any street railroad, shall receive from his employer thirty cents for each hour's labor over twelve hours in each day. [Stats. 1887, p. 101.]

Actions for wages.

SEC. 3247. In actions to recover the value or price of labor under section three thousand two hundred and forty-six of this code, the plaintiff may include in one action his claim for the number of days, and the number of hours' work over twelve hours in each day, performed by him for the defendant, and the court shall exclude all evidence of agreement to labor over twelve hours in one day for a less price than thirty cents, and the court shall exclude any receipt of payment for hours of labor over twelve hours in one day, unless it be established that at least thirty cents for each hour of labor over twelve hours in one day has been actually paid, and a partial payment shall not be deemed or considered a payment in full. [Stats. 1897, p. 208.]

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SEC. 3249. The provisions of section three thousand two hundred and forty-seven * * * of this code are applicable to every contract to labor made by the persons named in section three thousand two hundred and forty-six. [Stats. 1887, p. 102.]

Street railways.

SEC. 3250. No person shall be employed as conductor, or driver, or gripman, on any street railroad, for more than twelve hours in one day, except as in this act provided, and any corporation, or company, or owner, or agent, or superintendent, who knowingly employs any person in such capacity for more than twelve hours in one day, in violation of the

terms of this act, shall forfeit the sum of fifty dollars as a penalty for such offense, to the use of the person prosecuting any action therefor, and any number of forfeits may be prosecuted in one action. [Stats. 1887, p. 102.] Penalty.

Goods, etc., produced within the state to be preferred for public use.

SEC. 3247 (added by chapter 149, acts of 1897).* Any person, committee, board, officer, or any other person charged with the purchase, or permitted or authorized to purchase supplies, goods, wares, merchandise, manufactures or produce, for the use of the state, or any of its institutions or officers, or for the use of any county or consolidated city and county, or city, or town, shall always, price, fitness and quality equal, prefer such supplies, goods, wares, merchandise, manufactures or produce as has been grown, manufactured, or produced in this state, and shall next prefer such as have been partially so manufactured, grown, or produced in this state. [Stats. 1897, p. 208.] Preference of domestic products.

CIVIL CODE.

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* * * * * * *

4. Any injury to a servant which affects his ability to serve his master. [Enacted March 12, 1872.]

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SEC. 212. The wages of a minor employed in service may be paid to him until the parent or guardian entitled thereto gives the employer notice that he claims such wages. [Enacted March 12, 1872.] Payment to minors.

Employment of labor—General provisions.

SEC. 1965. The contract of employment is a contract by which one, who is called the employer, engages another, who Definition.

*This is a duplicate use of this section number, but is in accordance with the provisions of the chapter named.

is called the employee, to do something for the benefit of the employer, or of a third person. [Enacted March 21, 1872.]

Losses incurred in discharge of duty.

SEC. 1969. An employer must indemnify his employee except as prescribed in the next section, for all that he necessarily expends or loses in direct consequence of the discharge of his duties as such, or of his obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying such directions, believed them to be unlawful. [Enacted March 21, 1872.]

Ordinary risks.

*SEC. 1970 (as amended by chapter 97, acts of 1907). An employer is not bound to indemnify his employee for losses suffered by the latter in consequence of the ordinary risks of the business in which he is employed, nor in consequence of the negligence of another person employed by the same employer in the same general business, unless the negligence causing the injury was committed in the performance of a duty the employer owes by law to the employee, or unless the employer has neglected to use ordinary care in the selection of the culpable employee; *provided, nevertheless*, that the

Superior servants.

employer shall be liable for such injury when the same results from the wrongful act, neglect or default of any agent or officer of such employer, superior to the employee injured, or of a person employed by such employer having the right to control or direct the services of such employee injured, and also when such injury results from the wrongful act, neglect

Other departments, etc.

or default of a coemployee engaged in another department of labor from that of the employee injured, or employed upon a machine, railroad train, switch signal point, locomotive engine, or other appliance than that upon which the employee [who] is injured is employed, or who is charged with dispatching trains, or transmitting telegraphic or telephonic orders upon any railroad, or in the operation of any mine, factory, machine shop, or other industrial establishment.

Knowledge.

Knowledge by an employee injured of the defective or unsafe character or condition of any machinery, ways, appliances or structures of such employer shall not be a bar to the recovery for any injury or death caused thereby, unless it shall also appear that such employee fully understood, comprehended and appreciated the dangers incident to the use of such defective machinery, ways, appliances or struc-

*See Stats. 1911, chapter 399, employers' liability act.

tures, and thereafter consented to use the same, or continued in the use thereof.

When death, whether instantaneous or otherwise, results from an injury to an employee received as aforesaid, the personal representative of such employee shall have a right of action therefor against such employer, and may recover damages in respect thereof, for and on behalf, and for the benefit of the widow, children, dependent parents, and dependent brothers and sisters, in order of precedence as herein stated, but no more than one action shall be brought for such recovery. Injuries causing death.

Any contract or agreement, express or implied, made by any such employee to waive the benefits of this section, or any part thereof, shall be null and void, and this section shall not be construed to deprive any such employee or his personal representative, of any right or remedy to which he is now entitled under the laws of this state. Waivers.

The rules and principles of law as to contributory negligence which apply to other cases shall apply to cases arising under this section, except in so far as the same are herein modified or changed. [Enacted March 21, 1872.] Contributory negligence.

SEC. 1971. An employer must in all cases indemnify his employees for losses caused by the former's want of ordinary care. [Enacted March 21, 1872.] Want of care.

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SEC. 1975. One who, without consideration, undertakes to do a service for another, is not bound to perform the same, but if he actually enters upon its performance, he must use at least slight care and diligence therein. [Enacted March 21, 1872.] Service without consideration.

SEC. 1976. One who, by his own special request, induces another to instruct him with the performance of a service, must perform the same fully. In other cases, one who undertakes a gratuitous service may relinquish it at any time. [Enacted March 21, 1872.] Requested employment.

SEC. 1977. A gratuitous employee, who accepts a written power of attorney, must act under it so long as it remains in force, or until he gives notice to his employer that he will not do so. [Enacted March 21, 1872.] Gratuitous attorney.

Employee for consideration.

SEC. 1978. One who, for a good consideration, agrees to serve another, must perform the service, and must use ordinary care and diligence therein, so long as he is thus employed. [Enacted March 21, 1872.]

Interested volunteer.

SEC. 1979. One who is employed at his own request to do that which is more for his own advantage than for that of his employer, must use great care and diligence therein to protect the interest of the latter. [Enacted March 21, 1872.]

Duration of contract.

SEC. 1980. A contract to render personal service, other than a contract of apprenticeship, as provided in the chapter on master and servant, can not be enforced against the employee beyond the term of two years from the commencement of service under it; but if the employee voluntarily continues his service under it beyond that time, the contract may be referred to as affording a presumptive measure of the compensation. [Enacted March 21, 1872.]

Directions.

SEC. 1981. An employee must substantially comply with all the directions of his employer concerning the service on which he is engaged, except where such obedience is impossible or unlawful, or would impose new and unreasonable burdens upon the employee. [Enacted March 21, 1872.]

Usage.

SEC. 1982. An employee must perform his service in conformity to the usage of the place of performance, unless otherwise directed by his employer, or unless it is impracticable, or manifestly injurious to his employer to do so. [Enacted March 21, 1872.]

Degree of skill.

SEC. 1983. An employee is bound to exercise a reasonable degree of skill, unless his employer has notice, before employing him, of his want of skill. [Enacted March 21, 1872.]

Same subject.

SEC. 1984. An employee is always bound to use such skill as he possesses, so far as the same is required, for the service specified. [Enacted March 21, 1872.]

The employee may employ others to do the work where his personal attention is not contracted for: 24 Cal. 308.

Acquisitions by virtue of employment.

SEC. 1985. Everything which an employee acquires by virtue of his employment, except the compensation, if any, which is due to him from his employer, belongs to the latter, whether acquired lawfully or unlawfully, or during or after the expiration of the term of his employment. [Enacted March 21, 1872.]

SEC. 1986. An employee must, on demand, render to his

employer just accounts of all his transactions in the course of his service, as often as may be reasonable, and must, without demand, give prompt notice to his employer of everything which he receives for his account. [Enacted March 21, 1872.] Rendering accounts.

SEC. 1987. An employee who receives anything on account of his employer, in any capacity other than that of a mere servant, is not bound to deliver it to him until demanded, and is not at liberty to send it to him from a distance, without demand, in any mode involving greater risk than its retention by the employee himself. [Enacted March 21, 1872.] Delivery of goods, etc., received.

SEC. 1988. An employee who has any business to transact on his own account, similar to that intrusted to him by his employer, must always give the latter the preference. [Enacted March 21, 1872.] Priority of employer's business.

SEC. 1989. An employee who is expressly authorized to employ a substitute is liable to his principal only for want of ordinary care in his selection. The substitute is directly responsible to the principal. [Enacted March 21, 1872.] Employment of substitute.

SEC. 1990. An employee who is guilty of a culpable degree of negligence is liable to his employer for the damage thereby caused to the latter; and the employer is liable to him, if the service is not gratuitous, for the value of such services only as are properly rendered. [Enacted March 21, 1872.] Negligence.

SEC. 1991. When service is to be rendered by two or more persons jointly, and one of them dies, the survivor must act alone, if the service to be rendered is such as he can rightly perform without the aid of the deceased person, but not otherwise. [Enacted March 21, 1872.] Duty of survivor of joint servants.

SEC. 1996 (as amended by chapter 157, acts of 1901). Every employment in which the power of the employee is not coupled with an interest in its subject is terminated by notice to him of: Termination of employment.

1. The death of the employer; or,

2. His legal incapacity to contract.

The parties to a contract of employment may, however, in writing, provide that it shall, notwithstanding the death of the employer, continue obligatory for and against his heirs and personal representatives, provided their liability shall be restricted to property received from and under him. [Enacted March 21, 1872.]

Same subject.

SEC. 1997. Every employment is terminated:

1. By the expiration of its appointed term;

2. By the extinction of its subject;

3. By the death of the employee; or,

4. By his legal incapacity to act as such. [Enacted March 21, 1872.]

Service after death of employer.

SEC. 1998. An employee, unless the term of his service has expired, or unless he has a right to discontinue it at any time without notice, must continue his service after notice of the death or incapacity of his employer, so far as is necessary to protect from serious injury the interests of the employer's successor in interest, until a reasonable time after notice of the facts has been communicated to such successor. The successor must compensate the employee for such service according to the terms of the contract of employment. [Enacted March 21, 1872.]

Termination at will.

SEC. 1999. An employment having no specified term may be terminated at the will of either party, on notice to the other, except where otherwise provided by this title. [Enacted March 21, 1872.]

Breach of duty by employee.

SEC. 2000. An employment, even for a specified term, may be terminated at any time by the employer, in case of any wilful breach of duty by the employee in the course of his employment, or in case of his habitual neglect of his duty or continued incapacity to perform it. [Enacted March 21, 1872.]

By employer.

SEC. 2001. An employment, even for a specified term, may be terminated by the employee at any time, in case of any willful or permanent breach of the obligations of his employer to him as an employee. [Enacted March 21, 1872.]

Wages of employee dismissed for cause.

SEC. 2002. An employee, dismissed by his employer for good cause, is not entitled to any compensation for services rendered since the last day upon which a payment became due to him under the contract. [Enacted March 21, 1872.]

Of employee quitting for cause.

SEC. 2003. An employee who quits the service of his employer for good cause is entitled to such proportion of the compensation which would become due in case of full performance, as the services which he has already rendered bear to the services which he was to render as full performance. [Enacted March 21, 1872.]

Master and servant.

Servant defined.

SEC. 2009. A servant is one who is employed to render personal service to his employer, otherwise than in the pur-

suit of an independent calling, and who in such service remains entirely under the control and direction of the latter, who is called his master. [Enacted March 21, 1872.]

Term of employment.

SEC. 2010. A servant is presumed to have been hired for such length of time as the parties adopt for the estimation of wages. A hiring at a yearly rate is presumed to be for one year; a hiring at a daily rate, for one day; a hiring by piecework, for no specified term. [Enacted March 21, 1872.]

Presumption.

SEC. 2011. In the absence of any agreement or custom as to the term of service, the time of payment, or the rate or value of wages, a servant is presumed to be hired by the month, at a monthly rate of reasonable wages, to be paid when the service is performed. [Enacted March 21, 1872.]

Renewal by continuance

SEC. 2012. Where, after the expiration of an agreement respecting the wages and the term of service, the parties continue the relation of master and servant, they are presumed to have renewed the agreement for the same wages and term of service. [Enacted March 21, 1872.]

Time controlled by employer.

SEC. 2013. The entire time of a domestic servant belongs to the master; and the time of other servants to such an extent as is usual in the business in which they serve, not exceeding in any case ten hours in the day. [Enacted March 21, 1872.]

All the services rendered by one who receives a regular salary, if of the same nature as his regular duties, are presumed to be paid for by the salary: 9 Cal. 198.

Delivery of goods, etc., received.

SEC. 2014. A servant must deliver to his master, as soon as with reasonable diligence he can find him, everything that he receives for his account, without demand; but he is not bound, without orders from his master, to send anything to him through another person. [Enacted March 21, 1872.]

Employer may discharge, when.

SEC. 2015. A master may discharge any servant, other than an apprentice, whether engaged for a fixed term or not:

1. If he is guilty of misconduct in the course of his service, or of gross immorality, though unconnected with the same; or,

2. If, being employed about the person of the master, or in a confidential position, the master discovers that he has been guilty of misconduct, before or after the commencement of his service, of such a nature that, if the master had known or contemplated it, he would not have so employed him. [Enacted March 21, 1872.]

Seamen.

SEC. 2049. All persons employed in the navigation of a ship, or upon a voyage, other than the master and mate, are to be deemed seamen within the provisions of this code. [Enacted March 21, 1872.]

SEC. 2050. The mate and seamen of a ship are engaged by the master, and may be discharged by him at any period of the voyage, for willful and persistent disobedience or gross disqualification, but can not otherwise be discharged before the termination of the voyage. [Enacted March 21, 1872.]

SEC. 2051. A mate or seaman is not bound to go to sea in a ship that is not seaworthy; and if there is reasonable doubt of its seaworthiness, he may refuse to proceed until a proper survey has been had.

SEC. 2052. A seaman can not, by reason of any agreement, be deprived of his lien upon a ship, or of any remedy for the recovery of his wages to which he would otherwise have been entitled. Any stipulation by which he consents to abandon his right of wages in case of loss of the ship, or to abandon any right he may have or obtain in the nature of salvage is void. [Enacted March 21, 1872.]

SEC. 2053. No special agreement entered into by a seaman can impair any of his rights, or add to any of his obligations, as defined by law, unless he fully understands the effect of the agreement, and receives a fair compensation therefor. [Enacted March 21, 1872.]

SEC. 2054. Except as hereinafter provided, the wages of seamen are due when, and so far only as, freightage is earned, unless the loss of freightage is owing to the fault of the owner or master. [Enacted March 21, 1872.]

SEC. 2055. The right of mate or seamen to wages and provisions begins either from the time he begins work, or from the time specified in the agreement for his beginning work, or from his presence on board, whichever first happens. [Enacted March 21, 1872.]

SEC. 2056. Where a voyage is broken up before a departure of a ship, the seamen must be paid for the time they have served, and may retain for their indemnity such advances as they have received. [Enacted March 21, 1872.]

SEC. 2057. When a mate or seaman is wrongfully discharged, or is driven to leave the ship by the cruelty of the master on the voyage, it is then ended with respect to him,

and he may thereupon recover his full wages. [Enacted March 21, 1872.]

SEC. 2058. In case of loss or wreck of the ship, a seaman is entitled to his wages up to the time of the loss or wreck whether freightage has been earned or not, if he exerts himself to the utmost to save the ship, cargo and stores. [Enacted March 21, 1872.]

SEC. 2059. A certificate from the master or chief surviving officer of a ship, to the effect that a seaman exerted himself to the utmost to save the ship, cargo and stores, is presumptive evidence of the fact. [Enacted March 21, 1872.]

SEC. 2060. Where a mate or seaman is prevented from rendering service by illness or injury, incurred without his fault, in the discharge of his duty on the voyage, or by being wrongfully discharged, or by a capture of the ship, he is entitled to wages notwithstanding; but in case of a capture, a ratable deduction for salvage is to be made. [Enacted March 21, 1872.]

SEC. 2061. If a mate or seaman becomes sick or disabled during the voyage without his fault, the expense of furnishing him with suitable medical advice, medicine, attendance, and other provision for his wants, must be borne by the ship till the close of the voyage. [Enacted March 21, 1872.]

SEC. 2062. If a mate or seaman dies during the voyage, his personal representatives are entitled to his wages to the time of his death, if he would have been entitled to them had he lived to the end of the voyage. [Enacted March 21, 1872.]

SEC. 2063. Desertion of the ship, without cause, or a justifiable discharge by the master during the voyage, for misconduct, or a theft of any part of the cargo or appurtenances of the ship, or a willful injury thereto or to the ship, forfeits all wages due for the voyage to a mate or seaman thus in fault. [Enacted March 21, 1872.]

SEC. 2064. A mate or seaman may not, under any pretext, ship goods on his own account without permission from the master. [Enacted March 21, 1872.]

SEC. 2078. One who officiously, and without consent of the real or apparent owner of a thing, takes it into his possession for the purpose of rendering a service about it, must complete such service, and use ordinary care, diligence, and reasonable skill about the same. He is not entitled to any compensation for his service or expenses, except that he may

Volunteer service.

Compensation.

deduct actual and necessary expenses incurred by him about such service from any profits which his service has caused the thing to acquire for its owner, and must account to the owner for the residue. [Enacted March 21, 1872.]

Enforcement of contracts.

SEC. 3390. The following obligations can not be specifically enforced:

Labor contracts.

1. An obligation to render personal service;
2. An obligation to employ another in personal service;

* * * * * * *

[Enacted March 21, 1872.]

CIVIL CODE—APPENDIX.

(Page 827; Stats. 1901, page 75.)

Time of meals to be allowed employees in lumber mills, etc.

One hour at noon to be allowed.

SECTION 1. Every person, corporation, copartnership, or company operating a sawmill, shakemill, shingle-mill, or logging camp, in the State of California, shall allow to his or its employees, workmen, and laborers a period of not less than one hour at noon for the midday meal.

Penalty.

SEC. 2. Any person, corporation, copartnership, or company, his or its agents, servants, or managers, violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred dollars nor less than one hundred dollars for each violation of the provisions of this act.

(Page 827; Stats. 1871-72, page 413.)

Mine regulations—Quartz mines.

Escape shaft.

SECTION 1. It shall not be lawful for any corporation, association, owner, or owners of any quartz-mining claims within the State of California, where such corporation, association, owner, or owners employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface.

Same subject.

SEC. 2. It shall be the duty of each corporation, association, owner or owners of any quartz mine or mines in this state, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working shaft of such mine as a mode of escape from underground accident, or otherwise. And all corporations, associations, owner, or owners of mines as aforesaid, working at a greater depth than three hundred feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

Liability for violation.

SEC. 3. When any corporation, association, owner, or owners of any quartz mine in this state, shall fail to provide for the proper egress as herein contemplated, and where any accident shall occur, or any miner working therein shall be hurt or injured and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner, or owners of the mine where the injuries shall have occurred shall be liable to person injured in all damages that may accrue by reason thereof; and an action at law in a court of competent jurisdiction may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof by reason of their failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages * * *.

CODE OF CIVIL PROCEDURE.

Exemption of wages from execution.

Exemptions.

SEC. 690 (as amended by chapter 479, acts of 1907). The following property is exempt from execution or attachment, except as herein otherwise specially provided:

* * * * * * *

Seamen's, etc., wages.

9. The wages and earnings of all seamen, seagoing fishermen and sealers, not exceeding three hundred dollars, regard-

less of where or when earned, and in addition to all other exemptions otherwise provided by any law;

Thirty days' earnings, when.

10. The earnings of the judgment debtor for his personal services rendered at any time within thirty days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit or otherwise, that such earnings are necessary for the use of his family, residing in this state, supported in whole or in part by his labor; but where debts are incurred by any such person, or his wife or family for the common necessaries of life, or have been incurred at a time when the debtor had no family residing in this state, supported in whole or in part by his labor, the one half of such earnings above mentioned is nevertheless subject to execution, garnishment or attachment to satisfy debts so incurred;

* * * * * * *

[Enacted March 11, 1872.]

Attorney's fees in suits for wages.

Fee allowed on recovery.

SEC. 924 (as amended by chapter 51, acts of 1907). The prevailing party in the justices' courts is entitled to costs of the action, and also of any proceedings taken by him in aid of an execution issued upon any judgment recovered therein. In actions for the recovery of wages for labor performed, the court shall add, as part of the costs, in any judgment recovered by the plaintiff, an attorney's fee not exceeding twenty per cent of the amount recovered. [Enacted March 11, 1872.]

Wages preferred—In assignments, administration, etc.

Wages to be paid first in assignments.

SEC. 1204 (as amended by chapter 102, acts of 1901). When any assignment, whether voluntary or involuntary, is made for the benefit of the creditors of the assignor, or results from any proceeding in insolvency commenced against him, the wages and salaries of miners, mechanics, salesmen, servants, clerks, laborers, and other persons, for services rendered for him within sixty days prior to such assignment, or to the commencement of such proceeding, and not exceeding one hundred dollars each, constitute preferred claims, and must be paid by the trustee or assignee before the claim of any creditor of the assignor or insolvent. [Enacted March 11, 1872.]

SEC. 1205 (as amended by chapter 102, acts of 1901). In administration. Upon the death of any employer, the wages, not exceeding one hundred dollars in amount, of each miner, mechanic, salesman, clerk, servant, laborer, or other employee, for work done or services rendered within sixty days prior to such death, must be paid before any other claim against the estate of such employer, except his funeral expenses, and expenses of the last sickness, the allowance to the widow and infant children, and the charges and expenses of administration. [Enacted March 11, 1872.]

SEC. 1206 (as amended by chapter 102, acts of 1901). In executions. Upon the levy of any attachment or execution, not founded upon a claim for labor, any miner, mechanic, salesman, servant, clerk, laborer, or other person who has performed work or rendered services for the defendant within sixty days prior to the levy, may file a verified statement of his claim therefor with the officer executing the writ, and give copies thereof to the debtor and the creditor, and such claim, not exceeding one hundred dollars, unless disputed, must be paid by such officer from the proceeds of such levy remaining in his hands at the filing of such statement If any claim is disputed, within the time, and in the manner prescribed in section twelve hundred and seven, the claimant must within ten days thereafter commence an action for the recovery of his demand, which action must be prosecuted with due diligence, or his claim to priority of payment is forever barred. The officer must retain in his possession until the determination of such action so much of the proceeds of the writ as may be necessary to satisfy the claim, and if the claimant recovers judgment, the officer must pay the same, including the costs of suit, from such proceeds. [Enacted March 11, 1872.]

This section gives only a preferred claim against the debtor, but does not give any lien upon his property: 74 Pac. Rep. 1037.

PENAL CODE.

Protection of employees as voters.

Coercion etc., by employers.

SEC. 59. * * * It is not lawful for any employer, in paying his employees the salary or wages due them, to inclose their pay in "pay envelopes" upon which there is written or printed the name of any candidate, or any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees. Nor is it lawful for any employer, within ninety days of any election, to put up or otherwise exhibit in his factory, workshop, or other establishment or place where his workmen or employees may be working, any handbill or placard containing any threat, notice, or information, that in case any particular ticket of a political party, or organization, or candidate shall be elected, work in his place or establishment will cease, in whole or in part, or his place or establishment be closed up, or the salaries or wages of his workmen or employees be reduced, or threats, express or implied, intended or calculated to influence the political opinions or actions of his workmen or employees. This section applies to corporations as well as individuals, and any person or corporation violating the provisions of this section is guilty of a misdemeanor, and any corporation violating this section shall forfeit its charter. [Enacted February 14, 1872.]

Penalty.

Certain employments of children forbidden.

Mendicant, acrobatic, etc., occupations.

SEC. 272. Any person, whether as parent, relative, guardian, employer, or otherwise, having the care, custody, or control of any child under the age of sixteen years, who exhibits, uses, or employs, or in any manner, or under any pretense, sells, apprentices, gives away, lets out, or disposes of any such child to any person, under any name, title, or pretense, for or in any business, exhibition, or vocation, injurious to the health or dangerous to the life or limb of such child, or in or for the vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, acrobat, contortionist, or rider, in any place whatsoever, or

for or in any obscene, indecent or immoral purposes, exhibition, or practice whatsoever, or for or in any mendicant or wandering business whatsoever, or who causes, procures, or encourages such child to engage therein, is guilty of a misdemeanor, and punishable by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment Nothing in this section contained applies to or affects the employment or use of any such child, as a singer or musician in any church, school, or academy, or the teaching or learning of the science or practice of music; or the employment of any child as a musician at any concert or other musical entertainment, on the written consent of the mayor of the city or president of the board of trustees of the city or town where such concert or entertainment takes place. [Added by code amdts., 1875-76, p. 110.]

This section is constitutional: 86 Pac. Rep. 809.

Hiring, etc.

SEC. 273. Every person who takes, receives, hires, employs, uses, exhibits, or has in custody, any child under the age, and for any of the purposes mentioned in the preceding section, is guilty of a like offense, and punishable by a like punishment as therein provided. [Added by Stats. 1905, p. 759.]

Sending as messengers.

SEC. 273*e*. Every telephone, special delivery company or association, and every other corporation or person engaged in the delivery of packages, letters, notes, messages, or other matter, and every manager, superintendent, or other agent of such person, corporation, or association, who sends any minor in the employ or under the control of any such person, corporation, association, or agent, to the keeper of any house of prostitution, variety theater, or other place of questionable repute, or to any person connected with, or any inmate of, such house, theater, or other place, or who permits such minor to enter such house, theater, or other place, is guilty of a misdemeanor. [Added by Stats. 1905, p. 760.]

Same subject.

SEC. 273*f* (added by chapter 294, acts of 1907). Any person, whether as parent, guardian, employer, or otherwise, and any firm or corporation, who as employer or otherwise, shall send, direct, or cause to be sent or directed to any saloon, gambling house, house of prostitution, or other im-

moral place, any minor under the age of eighteen, is guilty of a misdemeanor.

Negligence of employees on steamboats, etc.

Negligence of captain, etc., of steamboats.

SEC. 348. Every captain or other person having charge of any steamboat used for the conveyance of passengers, or of the boilers and engines thereof, who, from ignorance or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst or break the boiler, or any apparatus or machinery connected therewith, by which bursting or breaking human life is endangered, is guilty of a felony. [Enacted February 14, 1872.]

Negligence endangering life.

SEC. 349. Every engineer or other person having charge of any steam boiler, steam engine, or other apparatus for generating or employing steam, used in any manufactory, railway, or other mechanical works, who willfully, or from ignorance, or gross neglect, creates, or allows to be created such an undue quantity of steam as to burst or break the boiler or engine, or apparatus, or cause any other accident whereby human life is endangered, is guilty of a felony. [Enacted February 14, 1872.]

Negligence of engineers, etc.

SEC. 368. Every person having charge of any steam boiler or steam engine, or other apparatus for generating or employing steam, used in any manufactory, or on any railroad, or in any vessel, or in any kind of mechanical work, who willfully, or from ignorance or neglect, creates, or allows to be created, such an undue quantity of steam as to burst or break the boiler, engine, or apparatus, or to cause any other accident whereby the death of a human being is produced, is punishable by imprisonment in the state prison for not less than one nor more than ten years. [Enacted February 14, 1872.]

Of conductors, etc., on trains.

SEC. 369. Every conductor, engineer, brakeman, switchman, or other person having charge, wholly or in part, of any railroad, car, locomotive, or train, who willfully or negligently suffers or causes the same to collide with another car, locomotive, or train, or with any other object or thing whereby the death of a human being is produced, is punishable by imprisonment in the state prison for not less than one year nor more than ten years. [Enacted February 14, 1872.]

Street cars to be provided with brakes, etc.

Brakes required.

SEC. 369*a*. Any person, company, or corporation, operating cars on the streets of cities or towns, or on the county roads within the state, for the conveyance of passengers, propelled by means of wire ropes attached to stationary engines, or by electricity or compressed air, who runs, operates, or uses any car or dummy, unless each car and dummy, while in use, is fitted with a brake capable of bringing such car to a stop within a reasonable distance, and a suitable fender or appliance placed in front or attached to the trucks of such dummy or car, for the purpose of removing and clearing obstructions from the track, and preventing any obstacles, obstructions, or person on the track from getting under such dummy or car, and removing the same out of danger, and out of the way of such dummy or car, is guilty of a misdemeanor. Where the board of supervisors of any county, or the city council or other governing body of any city, by ordinance, order, or resolution, prescribe the fender or brake to be used as aforesaid, then a compliance with such ordinance, order, or resolution must be deemed a full compliance with the provisions of this section. [Stats. 1905, p. 766.]

Intoxication and negligence of railroad employees.

Engineers, conductors, etc.

SEC. 369*f*. Any person employed upon any railroad as engineer, conductor, baggagemaster, brakeman, switchman, fireman, bridge tender, flagman, or signalman or having charge of the regulation or running of trains upon such railroad, in any manner whatever, who becomes or is intoxicated while engaged in the discharge of his duties, is guilty of a misdemeanor; and if any person so employed as aforesaid, by reason of such intoxication, does any act, or neglects any duty, which act or neglect causes the death of, or bodily injury to, any person or persons, he is guilty of a felony. [Added by Stats. 1905, p. 767.]

Same.

SEC. 391. Every person who is intoxicated while in charge of a locomotive engine, or while acting as conductor or driver upon any railroad train or car, whether propelled by steam or drawn by horses, or while acting as train dispatcher, or as telegraph operator, receiving or transmitting dispatches in relation to the movement of trains, is guilty of a misdemeanor. [Enacted February 14, 1872.]

Negligence endangering life.

SEC. 393. Every engineer, conductor, brakeman, switch tender, or other officer, agent, or servant of any railroad company, who is guilty of any willful violation or omission of his duty as such officer, agent or servant, whereby human life or safety is endangered, the punishment of which is not otherwise prescribed, is guilty of a misdemeanor. [Enacted February 14, 1872.]

Misrepresentation—Kind of labor employed.

SEC. 349*a* (as amended Stats. 1911, chapter 181). Any person engaged in the production, manufacture, or sale of any article of merchandise in this state, who, by any imprint, label, trade-mark, tag, stamp, or other inscription or device, placed or impressed upon such article, or upon the cask, box, case, or package containing the same, misrepresents or falsely states the kind, character, or nature of the labor employed or used, or the extent of the labor employed or used, or the number or kind of persons exclusively employed or used, or that a particular or distinctive class or character of laborers was wholly and exclusively employed, when in fact another class, or character, or distinction of laborers was used or employed either jointly or in any wise supplementary to such exclusive class, character, or distinction of laborers, in the production or manufacture of the article to which such imprint, label, trade-mark, tag, stamp, or other inscription or device is affixed, or upon the cask, box, case or package containing the same, is guilty of a misdemeanor, and punishable by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than twenty nor more than ninety days, or both. [Added by Stats. 1905, p. 669.]

Protection of employees on buildings.

Unsafe scaffolding, etc.

SEC. 402*c*. Any person or corporation employing or directing another to do or perform any labor in the construction, alteration, repairing, painting or cleaning of any house, building or structure within this state, who knowingly or negligently furnishes or erects or causes to be furnished or erected for the performance of such labor, unsafe or improper scaffolding, slings, hangers, blocks, pulleys, stays, braces, ladders, irons, ropes or other mechanical contrivances, or who hinders or obstructs any officer attempting to inspect the

same under the provisions of * * * [section 12 of act No. 1828, General Laws] or who destroys, or defaces or removes any notice posted thereon by such officer or permits the use thereof, after the same has been declared unsafe by such officer, contrary to the provisions of said section twelve of said act, shall be guilty of a misdemeanor. [Added by Stats. 1903, p. 216.]

Protection of workmen as members of the National Guard.

Discrimination forbidden.

SEC. 421. No association or corporation shall by any constitution, rule, by-law, resolution, vote or regulation, discriminate against any member of the national guard of California because of his membership therein. Any person who willfully aids in enforcing any such constitution, rule, by-law, resolution, vote or regulation against any member of said national guard of California, is guilty of a misdemeanor. [Added by Stats. 1905, p. 190.]

Employers to report names of taxable employees.

Employers to report.

SEC. 434. Every person who, when requested by the collector of taxes or licenses, refuses to give to such collector the name and residence of each man in his employment, or to give such collector access to the building or place where such men are employed, is guilty of a misdemeanor. [Enacted February 14, 1872.]

Employees on public works.

Eight hours a day's work.

SEC. 653*c*. The time of service of any laborer, workman, or mechanic employed upon any of the public works of the State of California, or of any political subdivision thereof, or upon work done for said state, or any political subdivision thereof, is hereby limited and restricted to eight hours during any one calendar day; and it shall be unlawful for any officer, or agent of said state, or of any political subdivision thereof, or for any contractor or subcontractor doing work under contract upon any public works aforesaid, who employs, or who directs or controls, the work of any laborer, workman, or mechanic, employed as herein aforesaid, to require or permit such laborer, workman, or mechanic, to labor more than eight hours during any one calendar day, except in cases of extraordinary emergency, caused by fire, flood, or danger to life or property, or except to work upon public military or naval

defenses or works in time of war. Any officer or agent of the State of California, or of any political subdivision thereof, making or awarding, as such officer or agent, any contract, the execution of which involves or may involve the employment of any laborer, workman, or mechanic upon any of the public works, or upon any work, hereinbefore mentioned, shall cause to be inserted therein a stipulation which shall provide that the contractor to whom said contract is awarded shall forfeit, as a penalty, to the state or political subdivision in whose behalf the contract is made and awarded, ten dollars for each laborer, workman, or mechanic employed, in the execution of said contract, by him, or by any subcontractor under him, upon any of the public works, or upon any work, hereinbefore mentioned, for each calendar day during which such laborer, workman, or mechanic is required or permitted to labor more than eight hours in violation of the provisions of this act; and it shall be the duty of such officer or agent to take cognizance of all violations of the provisions of said act committed in the course of the execution of said contract, and to report the same to the representative of the state or political subdivision, party to the contract, authorized to pay to said contractor moneys becoming due to him under the said contract, and said representative, when making payment of moneys thus due, shall withhold and retain therefrom all sums and amounts which shall have been forfeited pursuant to the herein said stipulation. Any officer, agent, or representative of the State of California, or of any political subdivision thereof, who shall violate any of the provisions of this section, shall be deemed guilty of misdemeanor, and shall upon conviction be punished by fine not exceeding five hundred dollars, or by imprisonment, not exceeding six months, or by both such fine and imprisonment, in the discretion of the court. [Added by Stats. 1905, p. 666.]

Retaining wages.

SEC. 653*d*. Every person who employs laborers upon public works, and who takes, keeps, or receives for his own use any part or portion of the wages due to any such laborers from the state or municipal corporation for which such work is done, is guilty of a felony. [Added by Stats. 1905, p. 667.]

Protection of employees as members of labor organizations.

SEC. 679. Any person, or corporation within this state, or agent or officer on behalf of such person or corporation, who

shall hereafter coerce or compel any person or persons to enter into an agreement, either written or verbal, not to join or become a member of any labor organization, as a condition of such person or persons securing employment or continuing in the employment of any such person or corporation, shall be guilty of a misdemeanor. [Added by Stats. 1893, p. 176.] Restraining employees from membership in union.

Payment of wages in barrooms, etc.

SEC. 680. Every person who shall pay any employee his wages, or any part thereof, while such employee is in any saloon, barroom, or other place where intoxicating liquors are sold at retail, unless said employee is employed in such saloon, barroom, or such other place where intoxicating liquors are sold, shall be deemed guilty of a misdemeanor. [Added by Stats. 1901, p. 660.] Employees not to be paid in barrooms.

PENAL CODE—APPENDIX.

(Page 762; Stats. 1903, page 289.)

Labor combinations not unlawful.

SECTION 1. No agreement, combination, or contract by or between two or more persons to do or procure to be done, or not to do or procure not to be done, any act in contemplation or furtherance of any trade dispute between employers and employees in the State of California shall be deemed criminal, nor shall those engaged therein be indictable or otherwise punishable for the crime of conspiracy, if such act committed by one person would not be punishable as a crime, nor shall such agreement, combination, or contract be considered as in restraint of trade or commerce, nor shall any restraining order or injunction be issued with relation thereto. Nothing in this act shall exempt from punishment, otherwise than as herein excepted, any persons guilty of conspiracy, for which punishment is now provided by any act of the legislature, but such act of the legislature shall, as to the agreements, combinations, and contracts hereinbefore referred to, be construed as if this act were therein contained: *Provided*, that nothing in this act shall be construed to authorize force or violence, or threats thereof. Labor agreements not conspiracy.

(Page 834; Stats. 1903, page 269.)

Employment of labor—False representations.

False statements.

SECTION 1. It shall be unlawful for any person, partnership, company, corporation, association, or organization of any kind, doing business in this state directly or through any agent or attorney, to induce, influence, persuade, or engage any person to change from one place to another in this state or to change from any place in any state, territory, or country to any place in this state, to work in any branch of labor, through or by means of knowingly false representations, whether spoken, written, or advertised in printed form, concerning the kind or character of such work, the compensation therefor, the sanitary conditions relating to or surrounding it, or the existence or non-existence of any strike, lockout, or other labor dispute affecting it and pending between the proposed employer or employers and the persons then or last theretofore engaged in the performance of the labor for which the employee is sought.

Strikes, etc.

Penalty.

SEC. 2. Any violation of section one or section two hereof shall be deemed a misdemeanor, and shall be punished by a fine of not exceeding two thousand dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

GENERAL LAWS.

ACT No. 127.

(Stats. 1901, page 589.)

Employment of aliens on public works.

SECTION 1. No person, except a native-born, or naturalized citizen of the United States, shall be employed in any department of the state, county, city and county, or incorporated city or town government in this state. Aliens not to be employed.

SEC. 2. It shall be unlawful for any person, whether elected, appointed or commissioned to fill any office in either the state, county, city and county, or incorporated city or town government of this state, or in any department thereof, to appoint or employ any person to perform any duties whatsoever, except such person be a native-born or naturalized citizen of the United States. Officers not to employ aliens.

SEC. 3. No money shall be paid out of the state treasury, or out of the treasury of any county, or city and county, or incorporated city or town, to any person employed in any of the offices mentioned in section two of this act, except such person shall be a native-born or naturalized citizen of the United States. Public money not to be paid aliens.

ACT No. 219.

(Stats. 1891, page 49.)

State board of arbitration and conciliation.

SECTION 1. On or before the first day of May of each year, the governor of the state shall appoint three competent persons to serve as a state board of arbitration and conciliation. One shall represent the employers of labor, one shall represent labor employees, and the third member shall represent neither, and shall be chairman of the board. They shall hold office for one year and until their successors are appointed and qualified. If a vacancy occurs, as soon as possible thereafter the governor shall appoint some one to serve the unexpired terms: *Provided, however*, that when the parties to any controversy or difference, as provided in section two of this act, do not desire to submit their controversy to the Qualifications of members.

Special boards.

state board, they may by agreement each choose one person, and the two shall choose a third, who shall be chairman and umpire, and the three shall constitute a board of arbitration and conciliation for the special controversy submitted to it, and shall for that purpose have the same powers as the state board. The members of the said board or boards, before entering upon the duties of their office, shall be sworn to faithfully discharge the duties thereof. They shall adopt such rules of procedure as they may deem best to carry out the provisions of this act.

Duties of board.

SEC. 2. Whenever any controversy or difference exists between an employer, whether an individual, copartnership, or corporation, which if not arbitrated, would involve a strike or lockout, and his employees, the board shall, upon application, as hereinafter provided, and as soon as practicable thereafter, visit, if necessary, the locality of the dispute and make careful inquiry into the cause thereof, hear all persons interested therein who may come before them, advise the respective parties what, if anything, ought to be done or submitted to by either, or both, to adjust said dispute and make a written decision thereof. This decision shall at once be made public, and shall be recorded upon proper books of record to be kept by the board.

Application.

SEC. 3. Said application shall be signed by said employer, or by a majority of his employees in the department of the business in which the controversy or difference exists, or their duly authorized agent, or by both parties, and shall contain concise statement of the grievances complained of, and a promise to continue on in business or at work, without any lockout or strike, until the decision of said board, which must, if possible, be made within three weeks of the date of filing the application. Immediately upon receipt of said application, the chairman of said board shall cause public notice to be given of the time and place for hearing. Should the petitioners fail to keep the promise made therein, the board shall proceed no further thereupon without the written consent of the adverse party. And the party violating the contract shall pay the extra cost of the board entailed thereby. The board may then reopen the case and proceed to the final arbitration thereof as provided in section two hereof.

Hearing.

Decision.

SEC. 4. The decision rendered by the board shall be binding upon the parties who join in the application for six

months, or until either party has given the other a written notice of his intention not to be further bound by the conditions thereof after the expiration of sixty days or any time agreed upon by the parties, which agreement shall be entered as a part of the decision. Said notice may be given to the employees by posting a notice thereof in three conspicuous places in the shop or factory where they work.

Complaints may be submitted.

SEC. 5. Both employers and employees shall have the right at any time to submit to the board complaints or grievances and ask for an investigation thereof. The board shall decide whether the complaint is entitled to a public investigation, and if they decide in the affirmative, they shall proceed to hear testimony, after giving notice to all parties concerned, and publish the result of their investigations as soon as possible thereafter.

Expense borne by state.

SEC. 6. The arbitrators hereby created shall be paid five dollars per day for each day of actual service, and also their necessary traveling and other expenses incident to the duties of their office shall be paid out of the state treasury; but the expenses and salaries hereby authorized shall not exceed the sum of twenty-five hundred dollars for the two years.

ACT No. 1036.

(Stats. 1903, page 14.)

Employment agencies.

Definition.

SECTION 1. Any person, firm, corporation or association pursuing for profit the business of furnishing, directly or indirectly, to persons seeking employment, information enabling, or tending to enable such persons to secure such employment, or registering for any fee, charge, or commission the names of any persons seeking employment as aforesaid, shall be deemed to be an employment agent within the meaning of this act.

Advance charges.

SEC. 2. It shall be unlawful for an employment agent in the State of California to receive, directly or indirectly, any money or other valuable consideration from any person seeking employment, for any information or assistance furnished or to be furnished by said agent to such person, enabling or tending to enable said person to secure such employment, prior to the time at which said information or assistance is actually thus furnished.

SEC. 3 (as amended, Stats. 1905, p. 143). It shall be unlawful for any employment agent in the State of California, to induce, influence, persuade, or engage any person to change from one place to another in this state, or to change from any place in any state, territory, or country, to any place in this state to work in any branch of labor, through or by means of any representations whatsoever, whether spoken, written, or advertised in printed form, unless such employment agent shall have assured himself beyond a reasonable doubt that such representations are true and cover all material facts affecting the employment in question.

Fees to be returned.

Whenever any such representation, whereby any person is induced, influenced, persuaded, or engaged to change from one place to another in this state, or from any place in any state, territory, or country, to any place in this state to work in any branch of labor, shall prove to be in any material degree at variance with, or short of the truth, the employment agent responsible for such representations shall immediately return to any person who shall have been influenced by such representations, any and all such fees paid by such person to said employment agent on the strength of such representations, together with an amount of money sufficient to cover all necessary expenses incurred by such person influenced by such representations in going to and returning from any place he shall have been influenced by such representations to visit in hope of such employment.

Costs, when.

SEC. 4. (Repealed, Stats. 1905, p. 143.)

List of agencies.

SEC. 5. The tax collector, or license collector of each respective city, county, or city and county of the State of California shall furnish quarterly, to the commissioner of the bureau of labor statistics of the State of California the name and address of each employment agent doing business in said city, county, or city and county; *provided*, that where the license is not a county license, but is collected by a municipal government, then the municipal collector of said tax shall furnish the names and addresses.

Records.

SEC. 6. Each employment agent in the State of California shall keep a written record, which shall show the name of each person making application to said agent for registration, information or assistance, such as is described in section two hereof; the name of each such person to whom such registration or information is furnished, and the amount received in

each such case therefor; the name of each person who, having received and paid for, as herein contemplated, registration, information or assistance such as is described in section two hereof, fails to secure the employment regarding which such registration, information or assistance is furnished, together with the reason why said employment was not by said person secured, and the name of each person to whom return is made, in accordance with the provisions of section three hereof, of any money or other consideration such as is in said section named, together with the amount of said money, or the value of said consideration, thus returned.

Inspection of records.

SEC. 7 (as amended, Stats. 1909, p. 149). Each employment agent in the State of California shall permit the commissioner of the bureau of labor statistics of said state, by himself, or by his deputies or agents, to have at all times access to, and to inspect, the record in section six hereof named, and upon demand in writing therefor by said commissioner, shall furnish to such commissioner a true copy of said record, or of such portion thereof as said demand in writing shall require a copy to be thus furnished. The commissioner, his deputies and agents shall have all powers and authority of sheriffs to make arrests for violations of the provisions of this act.

Access of.

Authority and power.

Penalty for violations.

SEC. 8 (as amended, Stats. 1909, p. 137). Any employment agent or other person violating or omitting to comply with any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding five hundred (500) dollars, or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment in the discretion of the court. All fines imposed and collected under the provisions of this act shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics.

Disposition of fines.

ACT No. 1037.

(Stats. 1909, page 191.)

Regulation and licensing of employment agencies.

SECTION 1. Any business, pursued for profit, for furnishing directly or indirectly, to persons seeking employment, information enabling, or tending to enable such persons to secure such employment, or registering for any fee, charge,

or commission, the names of any persons seeking employment as aforesaid, shall be deemed to be an employment agency within the meaning of this act.

SEC. 2. Every person, firm, corporation or association who conducts or operates an employment agency in the State of California, without first procuring a license therefor, as provided in this act, is guilty of a misdemeanor.

SEC. 3. Licenses granting the privilege to conduct or operate employment agencies shall be issued and delivered upon application, by the commissioner of the bureau of labor statistics, which license shall contain the name of the person, firm, corporation or association, seeking to conduct or operate an employment agency, and the exact location of the employment agency.

SEC. 4. The licenses herein provided for shall be issued as follows: To any person, firm, corporation or association, conducting or operating, or seeking to conduct or operate an employment agency—

1. In cities of the first, first and one half and second classes upon payment of fifty dollars.

2. In cities of the third and fourth classes, upon payment of twenty-five dollars.

3. In all other cities and towns, upon payment of six dollars.

SEC. 5. Every person, firm, corporation or association applying for and procuring a license as herein provided shall give to the commissioner of the bureau of labor statistics, the name and resident address of such person, or the names and resident addresses of the partners of such firms, or the names and resident addresses of the officers and directors of such corporations or associations, and the city or town, street and number where the employment agency is conducted or operated, or sought to be conducted and operated.

SEC. 6. All licenses issued as herein provided shall be valid, and shall authorize the person, firm, corporation or association to whom issued, to conduct or operate an employment agency on and from the date of issuing to the thirty-first day of March following, but no license shall continue in force for a longer period than one year.

SEC. 7. All moneys collected for licenses as provided herein, and all fines collected for violation of the provisions

hereof, shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics.

SEC. 8. Every person, firm, corporation or association conducting or operating, or seeking to conduct or operate branch employment agencies in the same or different localities must procure a separate license for such branch employment agencies; and no license issued as herein provided shall be transferable or used by any other person, firm, corporation or association than the one to whom it was issued, or used in a different location than the one for which it was issued, without the written consent of the commissioner of the bureau of labor statistics.

SEC. 9. All licenses issued as herein provided, shall be posted in a conspicuous place, and any person, firm, corporation or association having such license and who refuses to exhibit the same upon demand of any officer or agent of the bureau of labor statistics, or any peace officer of the state, shall be guilty of a misdemeanor; and any person, firm, corporation or association lawfully having such licenses, and who transfers or disposes of the same to another person, firm, corporation or association to be used as an employment agency license, shall forfeit the same.

SEC. 10. Every person, firm, corporation or association violating any of the provisions of this act, shall upon conviction thereof, be guilty of a misdemeanor.

SEC. 11. Upon conviction, of any person, firm, corporation or association for the violation of any of the provisions of this act, or an act entitled, "An act defining the duties and liabilities of employment agents, making the violation thereof a misdemeanor, and fixing the penalties therefor," approved February 12, 1903, the commissioner of the bureau of labor statistics shall have the right to revoke all licenses issued to such person, firm, corporation or association, enabling them to conduct or operate an employment agency.

SEC. 12. Nothing in this act shall be construed to prevent the collection of any tax or license by any county or municipal authority.

SEC. 13. All acts or parts of acts in conflict with this act are hereby repealed.

SEC. 14. This act shall take effect and be in force from and after April first, 1909.

ACT No. 1098.

(Stats. 1889, page 3.)

Sanitation and ventilation of factories and workshops.

Sanitation.

SECTION 1. Every factory, workshop, mercantile or other establishment, in which five or more persons are employed, shall be kept in a cleanly state and free from the effluvia arising from any drain, privy, or other nuisance, and shall be provided, within reasonable access, with a sufficient number of water-closets or privies for the use of the persons employed therein. Whenever the persons employed as aforesaid are of different sexes, a sufficient number of separate and distinct water-closets or privies shall be provided for the use of each sex, which shall be plainly so designated, and no person shall be allowed to use any water-closet or privy assigned to persons of the other sex.

Ventilation.

SEC. 2. Every factory or workshop in which five or more persons are employed shall be so ventilated while work is carried on therein that the air shall not become so exhausted as to be injurious to the health of the persons employed therein, and shall also be so ventilated as to render harmless, as far as practicable, all the gases, vapors, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein, that may be injurious to health.

Use of cellars.

SEC. 3. No basement, cellar, underground apartment, or other place which the commissioner of the bureau of labor statistics shall condemn as unhealthy and unsuitable, shall be used as a workshop, factory, or place of business in which any person or persons shall be employed.

Exhaust fans.

SEC. 4 (as amended, Stats. 1909, p. 43). In any factory, workshop, or other establishment where a work or process is carried on by which dust, filaments, or injurious gases are produced or generated, that are liable to be inhaled by persons employed therein, the person, firm, or corporation, by whose authority the said work or process is carried on, shall cause to be provided and used in said factory, workshop or other establishment, exhaust fans or blowers with pipes and hoods extending therefrom to each machine, contrivance or apparatus by which dust, filaments, or injurious gases are produced or generated. The said fans and blowers, and the said pipes and hoods, all to be properly fitted and adjusted,

and of power and dimensions sufficient to effectually prevent the dust, filaments, or injurious gases produced or generated by the above said machines, contrivances or apparatuses, from escaping into the atmosphere of the room or rooms of said factory, workshop or other establishment where persons are employed.

Seats for female employees.

SEC. 5 (as amended, Stats. 1903, p. 14). Every person, firm, or corporation employing females in any manufacturing, mechanical, or mercantile establishment shall provide suitable seats for the use of the females so employed, and shall provide such seats to the number of at least one third the number of females so employed; and shall permit the use of such seats by them when they are not necessarily engaged in the active duties for which they are employed.

Penalty.

SEC. 6 (as amended, Stats. 1901, p. 572). Any person or corporation violating any of the provisions of this act is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment, for each offense.

Enforcement.

SEC. 7. It shall be the duty of the commissioner of the bureau of labor statistics to enforce the provisions of this act.

SEC. 8. This act shall take effect and be in force from and after its passage.

ACT No. 1611.

(Stats. 1905, page 11; entire statute reënacted Stats. 1911, chapter 456.)

Child labor law.

Minors not to work more than nine hours a day.

SECTION 1. No minor under the age of eighteen shall be employed in laboring in any manufacturing, mechanical, or mercantile establishment, or other place of labor, more than nine hours in one day, except when it is necessary to make repairs to prevent the interruption of the ordinary running of the machinery, or when a different apportionment of the hours of labor is made for the sole purpose of making a shorter day's work for one day of the week, and in no case shall the hours of labor exceed fifty-four hours in a week.

Not to work 10 p. m. to 5 a. m.

SEC. 2 (as amended, Stats. 1907, pp. 978, 979; 1909, p. 387; 1911, chap. 456). No minor under the age of eighteen years shall be employed or permitted to work between the

hours of ten o'clock in the evening and five o'clock in the morning. No child under fifteen years of age shall be employed in any mercantile institution, office, laundry, manufacturing establishment, workshop, place of amusement, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages; *provided*, that the judge of the juvenile court of the county, or city and county, or in any county or city and county in which there is no juvenile court, then any judge of the superior court of the county or city and county in which such child resides shall have authority to issue a permit to work to any such child over the age of twelve years, upon a sworn statement being made to him by the parent of such child that such child is past the age of twelve years, that the parents or parent of such child are incapacitated for labor, through illness, and after investigation by a probation officer or attendance officer of the city, or city and county, in which such child resides, or in cities and counties where there are no probation or attendance officers, then by such other competent person as the judge may designate for this purpose. The permit so issued shall specify the kind of labor and the time for which it is issued, and shall in no case be issued for a longer period than shall seem necessary to the judge issuing such permit. Such permit shall be kept on file by the person, firm or corporation employing the child therein designated, during the term of said employment, and shall be given up to such child upon his quitting such employment. Such certificate shall be always open to the inspection of the attendance and probation officers of the city and county, city or county, in which the place of employment is situated, or the officers of the state bureau of labor statistics; *and provided*, that the attendance officer of any county, city and county, or school district in which any place of employment, in this section named, is situated, shall have the right and authority, at all times to enter into any such place of employment for the purpose of investigating violations of the provisions of this act, or violations of the provisions of an act entitled "An act to enforce the educational rights of children and providing penalties for the violation of the act," approved March 24, 1903, and amended March 20, 1905; *provided, however*, that if such attendance or probation officer is denied entrance to such place of employment, any magistrate may, upon the

Children under fifteen.

Juvenile court may permit child over twelve to work.

Attendance officer may enter places of employment.

filing of an affidavit by such attendance or probation officer setting forth the fact that he had a good cause to believe that the provisions of this act, or the act hereinbefore referred to, are being violated in such place of employment, issue an order directing such attendance or probation officer to enter said place of employment for the purpose of making such investigations; *and provided*, that any such child over the age of twelve years may be employed at any of the occupations mentioned in this act during the regular vacation of the public schools of the city, county, or city and county, in which the place of employment is situated, upon the production of a permit signed by the principal, vice-principal of the school, or secretary of the board of school trustees or board of education of the school which such child has attended during the term next preceding any such vacation. Such permit shall contain the name and age of the child to whom it is issued, and the date of the termination of the vacation for which it is issued, and shall be kept on file by the employer during the period of employment, and at the termination of such employment shall be returned to the child to whom it was issued. No minor who is under sixteen years of age shall be employed or permitted to work at any gainful occupation during the hours that the public schools of the city, town or school district in which his place of employment is situated are in session, unless he or she can read English at sight and can write legibly and correctly simple English sentences, or unless he or she is a regular attendant for the then current term at a regularly conducted night school. A certificate of the principal of such school shall be held to be sufficient evidence of such attendance.

Employment of children during vacation.

Minors under sixteen not to work during school hours.

SEC. 3 (as amended, Stats. 1909, p. 389; 1911, chap. 456). Every person, firm or corporation employing minors under eighteen years of age, in any manufacturing establishment, shall post, and keep posted, in a conspicuous place in every room where such help is employed, a written or printed notice stating the number of hours per day for each day of the week required of such persons. Every person, firm, or corporation, agent or officer of a firm or corporation, employing or permitting minors under sixteen and over fifteen years of age to work in any mercantile institution, office, laundry, manufacturing establishment, workshop, place of amusement, restaurant, hotel, apartment house, or in the distribution or

Posting notice of work hours.

Record of minors employed.

transmission of merchandise or messages, shall keep a record of the names, ages, and places of residence of such minors, and shall have on file a certificate of age and schooling, as provided in this act, for every such minor so employed, said record and certificate to be open at all times to the inspection of the school attendance and probation officers of the city and county, city, or county, in which the place of employment is situated, or of the officers of the state bureau of labor statistics.

Age and schooling certificates.

An age and schooling certificate shall be approved only by the superintendent of schools of the city or city and county, or by a person authorized by him in writing, or where there is no city or city and county superintendent of schools, by a person authorized by the local school trustees; *provided*, that the superintendent or principal of any school of recognized standing shall have the right to approve an age and schooling certificate, and shall have the same rights and powers as the superintendent of public schools to issue the certificate herein provided, for children attending such schools. The persons authorized to issue age and schooling certificates shall have the authority to administer the oaths necessary for carrying out the provisions of this act, but no fees shall be charged for issuing such certificates. An age and schooling certificate shall not be approved unless satisfactory evidence is furnished by the last school census, the certificate of birth or baptism of such child, the public register of birth of such child, or in some other manner, that such child is of the age stated in such certificate. A duplicate copy of each age and schooling certificate granted under the provisions of this act shall be kept by the person issuing such certificate, such copy to be filed with the county superintendent of schools in the county where the certificate is issued; *provided*, that all such copies of certificates issued between June 25th and December 25th of any year shall be filed not later than December 31st of such year; and those issued between December 25th and June 25th of the ensuing year shall be filed not later than June 30th of each year. Such certificates shall be substantially in the following form, to wit:

Duplicate copy filed.

Form of certificate.

Age and Schooling Certificate.—This certifies that I am the (father, mother, or guardian) of (name of the child), and that (he or she) was born at (name of town or city), in the county of (name of county, if known), and state (or coun-

try) of (name), on the day (day and year of birth), and is now (number of years and of months) old.

Signature, as provided in this act.

Town or city, and date.

There personally appeared before me the above named (name of person signing) and made oath that the following certificate by (him or her) signed is true to the best of (his or her) knowledge and belief.

I hereby approve the foregoing certificate of (name of child), height (feet and inches), complexion (fair or dark), hair (color), having no sufficient reason to doubt that (he or she) is of the age therein certified, and I hereby certify that (he or she) (can or can not) read English at sight, and (can or can not) write legibly simple sentences in the English language. There is hereto attached a written request from the prospective employer of such child, that an age and schooling certificate be granted to such child.

Signature of the person authorized to sign, with his official character and authority.

Town or city and date.

This certificate belongs to the person in whose behalf it is drawn, and it shall be presented to (him or her) whenever (he or she) leaves the services of the person, firm, or corporation holding the same. The certificate as to the birthplace and age of the minor under sixteen and over fifteen years of age shall be signed by his father, his mother, or his guardian; if a child has no father, mother, or guardian living in the same city or town, his own signature to the certificate may be accepted by the person authorized to approve the same. Every person authorized to sign the certificate prescribed by this act, who knowingly certifies to any false statement therein, is guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five nor more than fifty dollars, or imprisonment not more than thirty days, or by both such fine and imprisonment. The county superintendent of schools of each county shall file with the commissioner of the bureau of labor statistics a report showing the number of age and schooling certificates issued to male and female minors, fifteen years of age, and such other detailed information as the commissioner may require. Said report to be filed during the months of January and July of each year for the preceding six months, ending June 25th and Decem-

Information filed with bureau of labor statistics.

ber 25th of each year, and cover certificates issued during said periods and on file in the office of the county superintendent of schools as described in paragraph five of this section.

Remaining idle longer than two weeks.

SEC. 3*a* (added, Stats. 1911, chap. 456). *Provided, however*, that no child having a permit to work, as prescribed in section two of this act, and no child having an age and schooling certificate, as described in section three of this act, and no other child, between the ages of fifteen and sixteen years, who, if between the ages of eight and fifteen years, would by law be required to attend school, shall, while the public schools are in session, be and remain idle and unemployed for a period longer than two weeks, but must enroll and attend school; *provided*, that within one week after any child having such a permit to work or such age and schooling certificate shall have ceased to be employed by any employer, such employer shall, in writing, giving the latest correct address of such child known to such employer, notify, in the case of a child having a permit to work, the judge of the juvenile court in the county of said child's residence, or the probation officer of such juvenile court, or in the case of a child having an age and schooling certificate, the county superintendent of schools of such county, that such child is no longer employed by such employer; and such judge of the juvenile court, or such probation officer, or such county superintendent of schools, shall thereupon immediately notify the attendance officer having jurisdiction in the place of such child's residence, giving the said latest correct address of such child, that such child is neither at work nor in school; *and provided, further*, that no such child shall be permitted to cease school attendance, without securing a permit to work, or an age and schooling certificate as provided in this act.

Failure to comply with act misdemeanor.

SEC. 4 (as amended, Stats. 1909, p. 391; 1911, chap. 456). Any person, firm, corporation, agent, or officer of a firm or corporation that violates or omits to comply with any of the foregoing provisions of this act, or that employs or suffers or permits any minor to be employed in violation thereof, is guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars or more than two hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for each and every offense. A failure to produce any age and

schooling certificate or permit or to post any notice required by this act, shall be prima facie evidence of the illegal employment of any person whose age and schooling certificate or permit is not produced, or whose name is not so posted. Any fine collected under the provisions of this act shall be paid into the school funds of the county, or city, or city and county in which the offense occurred; except such fines imposed and collected as the result of prosecutions by the officers of the bureau of labor statistics. In such cases one half of the resultant fine or fines shall be paid into the state treasury and credited to the contingent fund of the bureau of labor statistics, and one half paid into the school funds of the county, or city, or city and county in which the offense occurred.

Fines paid into school funds.

SEC. 5 (as amended, Stats. 1911, chap. 456). Nothing in this act shall be construed to prohibit the employment of minors at agricultural, horticultural, or viticultural or domestic labor during the time the public schools are not in session, or during other than school hours. Nor shall anything in this act be construed to prohibit any child between the ages of fifteen and eighteen years, who is by any statute or statutes of the State of California, now or hereafter in force, permitted to be employed as an actor, or actress, or performer, in a theatre, or other place of amusement, previous to the hour of ten o'clock P. M., in the presentation of a performance, play or drama, continuing from an earlier hour till after the hour of ten o'clock P. M., from performing his or her part in such presentation as such employee between the hours of ten and twelve o'clock P. M.

Employment during school hours is not in session not prohibited.

Employment as actor in theatre not prohibited.

SEC. 6 (as amended, Stats. 1909, p. 391; 1911, chap. 456). It shall be the duty of the bureau of labor statistics to enforce the provisions of this act. The commissioner, his deputies, and agents, shall have all powers and authority of sheriffs to make arrests for violations of the provisions of this act.

Enforcement of act.

The above statute was declared constitutional in a unanimous opinion of the State Supreme Court in the case of *Ex parte Spencer,* decided July 9, 1906, 86 Pac. Rep. 896.

ACT No. 1733.

(Stats. 1909, page 227.)

Japanese—Statistics concerning.

SECTION 1. Upon this act becoming effective the governor shall direct the state labor commissioner to immediately undertake and complete as soon as possible the gathering and compiling of statistics and such other information regarding the Japanese of this state as may be useful to the governor in making a proper report to the president of the United States and to congress, and in furnishing to the people of this state and elsewhere a comprehensive statement of such conditions as actually exist. Upon the order of the governor such statistics and information shall be printed and distributed.

SEC. 2. The sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the state treasury not otherwise appropriated to carry out the provisions of this act. And the controller is hereby authorized to draw his warrants for the sum herein made available, and the state treasurer is hereby directed to pay the same.

SEC. 3. This act shall take effect immediately.

ACT No. 1734.

(Stats. 1909, page 719.)

Japanese—Records to be kept.

SECTION 1. It is hereby declared to be the duty of all officers of this state and all officers of each respective county, city, or city and county, in addition to their other duties, to keep such records as shall be required under the provisions of an act entitled "An act to provide for the gathering, compiling, printing and distribution of statistics and information regarding the Japanese of the state, and making an appropriation therefor," and to furnish to the commissioner of the bureau of labor statistics, upon request, whatever data it may be necessary for the commissioner to acquire in complying with the provisions of said act.

SEC. 2. This act shall take effect immediately.

ACT No. 1827.

(Stats. 1905, page 109.)

Social Statistics.

SECTION 1. The commissioner of the bureau of labor statistics is hereby directed, in addition to his other duties, to collect and present in his biennial report to the legislature, statistics relating to marriage, divorce and crime. Commissioner of labor.

SEC. 2. It is hereby declared to be the duty of all officers of each respective county, city, or city and county, in addition to their other duties, whose duty it is to keep a record of marriage, divorce or crime, and they must furnish to the commissioner of the bureau of labor statistics, upon his request, whatever data it may be necessary for said commissioner to acquire in complying with the provisions of section one of this act. Duty of county officers mandatory.

SEC. 3. This act shall take effect and be in force immediately upon its passage and approval. Enforcement, date of.

ACT No. 1828.

(Stats. 1883, page 27.)

Bureau of labor statistics.

SECTION 1 (as amended, Stats. 1911, chap. 21). As soon as possible after the passage of this act, the governor of the state shall appoint a suitable person to act as commissioner of a bureau of labor statistics. The headquarters of said bureau shall be located in the city and county of San Francisco. Said commissioner shall hold office and serve solely at the pleasure of the governor, and not otherwise. Commissioner. Term of office.

SEC. 2. The commissioner of the bureau, before entering upon the duties of his office, must execute an official bond in the sum of five thousand (5,000) dollars, and take the oath of office, all as prescribed by the Political Code for state officers in general. Official bond.

SEC. 3. The duties of the commissioner shall be to collect, assort, systematize, and present, in biennial reports to the legislature, statistical details, relating to all departments of labor in the state, such as the hours and wages of labor, cost of living, amount of labor required, estimated number of persons depending on daily labor for their support, the probable chances of all being employed, the operation of labor- Duties.

saving machinery in its relation to hand labor, etc. Said statistics may be classified as follows:

Classes of statistics.

First—In agriculture.

Second—In mechanical and manufacturing industries.

Third—In mining.

Fourth—In transportation on land and water.

Fifth—In clerical and all other skilled and unskilled labor not above enumerated.

Sixth—The amount of cash capital invested in lands, buildings, machinery, material, and means of production and distribution generally.

Seventh—The number, age, sex, and condition of persons employed; the nature of their employment; the extent to which the apprenticeship system prevails in the various skilled industries; the number of hours of labor per day; the average length of time employed per annum, and the net wages received in each of the industries and employments enumerated.

Eighth—The number and condition of the unemployed, their age, sex, and nationality, together with the cause of their idleness.

Ninth—The sanitary condition of lands, workshops, dwellings; the number and size of rooms occupied by the poor, etc.; the cost of rent, fuel, food, clothing, and water in each locality of the state; also the extent to which labor-saving processes are employed to the displacement of hand labor.

Tenth—The number and condition of the Chinese in the state; their social and sanitary habits; number of married and of single; the number employed, and the nature of their employment; the average wages per day at each employment, and the gross amount yearly; the amounts expended by them in rent, food, and clothing, and in what proportion such amounts are expended for foreign and home productions, respectively; to what extent their employment comes in competition with the white industrial classes of the state.

Eleventh—The number, condition and nature of the employment of the inmates of the state prisons, county jails, and reformatory institutions, and to what extent their employment comes in competition with the labor of mechanics, artisans and laborers outside of these institutions.

Twelfth—All such other information in relation to labor as the commissioner may deem essential to further the object

sought to be obtained by this statute, together with such strictures on the condition of labor and the probable future of the same as he may deem good and salutary to insert in his biennial reports.

Duties of state officers.

SEC. 4. It shall be the duty of all officers of state departments, and the assessors of the various counties of the state, to furnish, upon the written request of the commissioner, all the information in their power necessary to assist in carrying out the objects of this act; and all printing required by the bureau in the discharge of its duty shall be performed by the state printing department, and at least three thousand (3,000) copies of the printed report shall be furnished the commissioner for free distribution to the public.

Hindering commissioner.

SEC. 5. Any person who willfully impedes or prevents the commissioner, or his deputy, in the full and free performance of his or their duty, shall be guilty of a misdemeanor, and upon conviction of the same shall be fined not less than ten (10) nor more than fifty (50) dollars, or imprisoned not less than seven (7) nor more than thirty (30) days in the county jail, or both.

Information to be furnished.

SEC. 6. The office of the bureau shall be open for business from nine (9) o'clock A. M. until five (5) o'clock P. M. every day except non-judicial days, and the officers thereof shall give to all persons requesting it all needed information which they may possess.

Witnesses.

SEC. 7 (as amended, Stats. 1889, p. 6). The commissioner shall have power to send for persons and papers whenever in his opinion it is necessary, and he may examine witnesses under oath, being hereby qualified to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in the office of said commissioner. He shall have free access to all places and works of labor, and any principal, owner, operator, manager, or lessee of any mine, factory, workshop, warehouse, manufacturing or mercantile establishment, or any agent or employee of such principal, owner, operator, manager, or lessee who shall refuse to said commissioner, or his duly authorized representative, admission therein, or who shall, when requested by him willfully neglect or refuse to furnish to him any statistics or information, pertaining to his lawful duties, which may be in the possession or under the control of said principal, owner, operator, lessee, manager or agent thereof, shall be punished

Access to factories.

by a fine of not less than fifty nor more than two hundred dollars.

Information confidential.

SEC. 8 (as amended, Stats. 1889, p. 7). No use shall be made in the reports of the bureau of the names of individuals, firms, or corporations supplying the information called for by this act, such information being deemed confidential, and not for the purpose of disclosing any person's affairs; and any agent or employee of said bureau violating this provision shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment in the county jail not to exceed six months.

Deputies.

SEC. 9 (as amended, Stats. 1889, p. 7; 1907, pp. 306, 307; 1909, p. 36; 1911, chap. 634). The commissioner shall appoint two deputies, who shall have the same power as said commissioner, one of whom shall reside in the city and county of San Francisco and the other in the city of Los Angeles; one assistant deputy, who shall reside in the county of Los Angeles; a statistician; a stenographer, and such agents or assistants, as he may from time to time require, at such rate of wages as he may prescribe, but said rate must not exceed five dollars per day, and actual traveling expenses for each person while employed. He shall procure rooms necessary for offices, at a rent not to exceed the sum of one hundred and fifty dollars per month.

Assistants.

Salaries.

SEC. 10 (as amended, Stats. 1889, p. 7; 1907, pp. 306, 307; 1909, p. 36; 1911, chap. 634). The salary of the commissioner shall be three thousand dollars per annum, the salary of each deputy commissioner shall be twenty-four hundred dollars per annum, the salary of the assistant deputy shall be twenty-one hundred dollars per annum, the salary of the statistician shall be twenty-one hundred dollars per annum, the salary of the stenographer shall be twelve hundred dollars per annum, to be audited by the controller and paid by the state treasurer in the same manner as other state officers. There shall also be allowed a sum not to exceed twenty thousand dollars per annum for salaries of agents or assistants, for traveling expenses, and for other contingent expenses of the bureau.

Inspection of scaffolding.

SEC. 12 (as amended, Stats. 1901, p. 12). Whenever complaint is made to the commissioner that the scaffolding, or the slings, hangers, blocks, pulleys, stays, braces, ladders,

irons, or ropes of any swinging or stationary scaffolding used in the construction, alteration, repairing, painting, cleaning, or painting of a building are unsafe or liable to prove dangerous to the life or limb of any person, such commissioner shall immediately cause an inspection to be made of the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, iron, or other parts connected therewith. If after examination such scaffolding or any of such parts is found dangerous to life or limb, the commissioner shall prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. The commissioner, deputy commissioner, or agent or assistant making the examination shall attach a certificate to the scaffolding, or the slings, hangers, irons, ropes, or other parts thereof, examined by him, stating that he has made such examination and that he found it safe or unsafe as the case may be. If he declared it unsafe, he shall at once, in writing, notify the person responsible for its erection of the fact and warn him against the use thereof. Such notice may be served personally upon the person responsible for its erection or by conspicuously affixing to the scaffolding or the part thereof declared to be unsafe. After such notice has been so served or affixed the person responsible therefor shall immediately remove such scaffolding or part thereof and alter or strengthen it in such a manner as to render it safe, in the discretion of the officer who has examined it or of his superiors. The commissioner, his deputy, and any duly authorized representative whose duty it is to examine or test any scaffolding or part thereof as required by this section, shall have free access, at all reasonable hours, to any building or premises containing them or where they may be in use. All swinging and stationary scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom and placed thereon, when in use, and not more than four men shall be allowed on any swinging scaffolding at one time.

This act shall take effect immediately.

ACT No. 1830.

(Stats. 1909, page 546.)

Unlawful wearing of union button.

SECTION 1. Any person who shall willfully wear the button of any labor union of this state, unless entitled to wear said button under the rules of such union, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for a term not to exceed twenty days in the county jail or by a fine not to exceed twenty dollars, or by both such fine and imprisonment.

ACT No. 1831.

(Stats. 1909, page 668.)

Unlawful using of union card.

SECTION 1. Any person, who shall willfully use the card of any labor union to obtain aid, assistance or employment, thereby within this state, unless entitled to use said card under the rules and regulations of a labor union within this state, shall be guilty of a misdemeanor.

SEC. 2. All acts, and parts of acts, in conflict with the provisions of this act, are hereby repealed.

ACT No. 2062.

(Stats. 1909, page 400.)

Shoddy—Labeling of.

SECTION 1. All persons manufacturing in this state, in whole or in part, any article of hotel, boarding house, lodging house or domestic or office furniture, or beds or mattresses, or cushions, used or intended to be or that could be used by human beings, that are stuffed or made in whole or in part, with material composed in whole or in part from second-hand or cast-off clothing, rags, or second-hand, or cast-off material of any character whatever, or with shoddy, shall at the time of the completion of such manufacture attach to a conspicuous place upon each of such articles so manufactured by him, a label or stamp showing the correct character of the materials with which the cushion portion of such articles of furniture or beds or cushions or mattresses are stuffed, and no person so manufacturing any such articles shall allow the same or any

thereof to leave his possession in the course of trade or business unless such label or stamp is so affixed, and no person shall sell, or offer for sale, in this state any of such articles of furniture, or beds, or mattresses, or cushions, whether the same are manufactured in this state or not, unless such a label or stamp is so affixed.

SEC. 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty, nor more than five hundred dollars, or imprisoned not more than six months, or by both such fine and imprisonment.

SEC. 3 (as amended, Stats. 1911, chap. 73). It shall be the duty of the commissioner of the bureau of labor statistics to enforce the provisions of this act. The commissioner, his deputies and agents shall have all powers and authority of sheriffs to make arrests for violations of the provisions of this act.

ACT No. 2137.

(Stats. 1893, page 54.)

Weekly day of rest.

SECTION 1. Every person employed in any occupation of labor shall be entitled to one day's rest therefrom in seven, and it shall be unlawful for any employer of labor to cause his employees, or any of them, to work more than six days in seven; *provided, however*, that the provisions of this section shall not apply to any case of emergency. One day's rest in seven.

SEC. 2. For the purposes of this act, the term day's rest shall mean and apply to all cases, whether the employee is engaged by the day, week, month, or year, and whether the work performed is done in the day or nighttime. Application of law.

SEC. 3. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor. Violation.

ACT No. 2141.

(Stats. 1909, page 157; entire act amended, Stats. 1911, chapter 590.)

Protection of workmen on buildings.

SECTION 1. Any building more than two stories high in the course of construction shall have the joists, beams or girders of each and every floor below the floor or level where

any work is being done, or about to be done, covered with flooring laid close together, or with such other suitable material to protect workmen engaged in such building from falling through joists or girders, and from falling planks, bricks, rivets, tools, or any other substance whereby life and limb are endangered.

SEC. 2. Such flooring shall not be removed until the same is replaced by the permanent flooring in such building.

SEC. 3. It shall be the duty of the general contractor having charge of the erection of such building to provide for the flooring as herein required, or to make such arrangements as may be necessary with subcontractors in order that the provisions of this act may be carried out.

SEC. 4. It shall be the duty of the owner or the agent of the owner of such building to see that the general contractor or subcontractors carry out the provisions of this act.

SEC. 5. Should the general contractor or subcontractors of such building fail to provide for the flooring of such building, as herein provided, then it shall be the duty of the owner or the agent of the owner of such building to see that the provisions of this act are carried out.

SEC. 6. Failure upon the part of the owner, agent of the owner, general contractor, or subcontractors to comply with the provisions of this act shall be deemed a misdemeanor and shall be punishable as such.

SEC. 7. This act shall take effect within sixty days.

ACT No. 2223.

(Stats. 1873-74, page 726.)

Mine regulations—Coal mines.

Map.

SECTION 1. The owner or agent of every coal mine shall make or cause to be made an accurate map or plan of the workings of such coal mine, on a scale of one hundred feet to the inch.

Same to be open to inspection.

SEC. 2. A true copy of which map or plan shall be kept at the office of the owner or owners of the mine, open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines by the agent or other person having charge of the mines, open to the inspection of the workmen.

Escape shaft.

SEC. 3. The owner or agent of every coal mine shall provide at least two shafts or slopes, or outlets, separated by natural strata of not less than one hundred and fifty feet in breadth, by which shafts, slopes, or outlets distinct means of ingress and egress are always available to the persons employed in the coal mine; *provided*, that if a new tunnel, slope, or shaft will be required for the additional opening, work upon the same shall commence immediately after the passage of this act, and continue until its final completion, with reasonable dispatch.

Ventilation.

SEC. 4. The owner or agent of every coal mine shall provide and establish for every such mine an adequate amount of ventilation, of not less than fifty-five cubic feet per second of pure air, or thirty-three hundred feet per minute, for every fifty men at work in such mine, and as much more as circumstances may require, which shall be circulated through to the face of each and every working place throughout the entire mine, to dilute and render harmless and expel therefrom the noxious, poisonous gases, to such an extent that the entire mine shall be in a fit state for men to work therein, and be free from danger to the health and lives of the men by reason of said noxious and poisonous gases, and all workings shall be kept clear of standing gas.

Inspection by overseer.

SEC. 5. To secure the ventilation of every coal mine, and provide for the health and safety of the men employed therein, otherwise and in every respect, the owner, or agent, as the case may be, in charge of every coal mine, shall employ a competent and practical inside overseer, who shall keep a careful watch over the ventilating apparatus, over the air ways, the traveling ways, the pumps and slumps, the timbering, to see as the miners advance in their excavations that all loose coal, slate, or rock overhead is carefully secured against falling; over the arrangements for signaling from the bottom to the top, and from the top to the bottom of the shaft or slope, and all things connected with the [and] appertaining to the safety of the men at work in the mine. He, or his assistants, shall examine carefully the workings of all mines generating explosive gases, every morning before the miners enter, and shall ascertain that the mine is free from danger, and the workmen shall not enter the mine until such examination has been made and reported, and the cause of danger, if any, be removed.

Hoisting machinery.

SEC. 6. The overseer shall see that hoisting machinery is kept constantly in repair and ready for use, to hoist the workmen in or out of the mine.

Owner defined.

SEC. 7. The word "owner" in this act shall apply to lessee as well.

Action for injuries.

SEC. 8. For any injury to person or property occasioned by any violation of this act, or any willful failure to comply with its provisions, a right of action shall accrue to the party injured for any direct damages he or she may have sustained thereby, before any court of competent jurisdiction.

Negligence of overseer.

SEC. 9. For any willful failure or negligence on the part of the overseer of any coal mine, he shall be liable to conviction of misdemeanor, and punished according to law; *provided*, that if such willful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter.

Boilers.

SEC. 10. All boilers used for generating steam in and about coal mines shall be kept in good order, and the owner or agent thereof shall have them examined and inspected, by a competent boilermaker, as often as once in three months.

Exception.

SEC. 11. This act shall not apply to opening a new coal mine.

ACT No. 2224.

(Stats. 1881, page 81.)

Miners' hospital.

Object.

SECTION 1. There shall be erected, as soon as conveniently may be, upon some suitable site, * * * a public hospital and asylum for the reception, care, medical, and surgical treatment, and relief of the sick, injured, disabled, and aged miners, which shall be known as the "California State Miners' Hospital and Asylum."

Charges.

SEC. 5. Indigent miners shall be charged for medical attendance, surgical operations, board, and nursing while residents in the hospital and asylum, no more than the actual cost; paying patients, whose friends can pay their expenses, and who are not chargeable upon townships and counties, shall pay according to the terms directed by the trustees.

Patients from counties, etc.

SEC. 6. The several boards of supervisors of counties, or any constituted authority in the state having care and charge of any indigent sick, or aged person or persons, if satisfactorily proven by them to have been miners, shall have author-

ity to send to the "California State Miners' Hospital and Asylum" such persons, and they shall be severally chargeable with the expenses of the care, maintenance, and treatment, and removal to and from the hospital and asylum of such patients.

ACT No. 2225.

(Stats. 1893, page 82.)

Mine regulations—Signals.

Mine signals.

SECTION 1. Every person, company, corporation, or individual operating any mine within the State of California—gold, silver, copper, lead, coal, or any other metal or substance where it is necessary to use signals by means of bell or otherwise for shafts, inclines, drifts, crosscuts, tunnels, and underground workings—shall, after the passage of this bill, adopt, use, and put in force the following system or code of mine bell signals, as follows:

1 bell, to hoist. (See Rule 2.)

1 bell, to stop if in motion.

2 bells, to lower. (See Rule 2.)

3 bells, man to be hoisted; run slow. (See Rule 2.)

4 bells, start pump, if not running, or stop pump if running.

5 bells, send down tools. (See Rule 4.)

6 bells, send down timbers. (See Rule 4.)

7 bells, accident; move bucket or cage by verbal orders only.

1—3 bells, start or stop air compressor.

1—4 bells, foreman wanted.

2—1—1 bells, done hoisting until called.

2—1—2 bells, done hoisting for the day.

2—2—2 bells, change buckets from ore to water, or vice versa.

3—2—1 bells, ready to shoot in the shaft. (See Rule 3.)

Engineer's signal, that he is ready to hoist, is to raise the bucket or cage two feet and lower it again. (See Rule 3.)

Levels shall be designated and inserted in notice hereinafter mentioned. (See Rule 5.)

Rules.

SEC. 2. For the purpose of enforcing and properly understanding the above code of signals, the following rules are hereby established:

Rule 1.—In giving signals make strokes on bell at regular

intervals. The bar (—) must take the same time as for one stroke of the bell, and no more. If timber, tools, the foreman, bucket, or cage, are wanted to stop at any level in the mine, signal by number of strokes on the bell, the number of the level first before giving the signal for timber, tools, etc. Time between signals to be double bars (— —). Examples:

6——5, would mean stop at sixth level with tools.

4——1—1———1, would mean stop at fourth level, man on, hoist.

2——1—4, would mean stop at second level with foreman.

Rule 2.—No person must get on or off the bucket or cage while the same is in motion. When men are to be hoisted, give the signal for men. Men *must* then get on bucket or cage, *then* give the signal to hoist. Bell cord must be in reach of man on the bucket or cage at stations.

Rule 3.—After signal "Ready to shoot in shaft," engineer must give his signal when he is ready to hoist. Miners must then give the signal of "men to be hoisted," then "spit fuse," get into the bucket, and give the signal to hoist.

Rule 4.—All timbers, tools, etc., "longer than the depth of the bucket," to be hoisted or lowered, must be securely lashed at the upper end to the cable. Miners must know they will ride up or down the shaft without catching on rocks or timbers, and be thrown out.

Rule 5.—The foreman will see that one printed sheet of these signals and rules for each level and one for the engine room are attached to a board not less than twelve inches wide by thirty-six inches long, and securely fasten the board up where signals can be easily read at the places above stated.

Rule 6.—The above signals and rules must be obeyed. Any violation will be sufficient grounds for discharging the party or parties so doing. No person, company, corporation, or individuals operating any mine within the State of California shall be responsible for accidents that may happen to men disobeying the above rules and signals. Said notice and rules shall be signed by the person or superintendent having charge of the mine, who shall designate the name of the corporation or the owner of the mine.

Liability for violation.

SEC. 3. Any person or company failing to carry out any of the provisions of this act shall be responsible for all damages arising to or incurred by any person working in said mine during the time of such failure.

ACT No. 2230.

(Stats. 1909, page 279.)

Hours of labor in mines and smelting works.

SECTION 1. That the period of employment for all persons who are employed or engaged in work in underground mines in search of minerals, whether base or precious, or who are engaged in such underground mines for other purposes, or who are employed or engaged in other underground workings whether for the purpose of tunneling, making excavations or to accomplish any other purpose or design, or who are employed in smelters and other institutions for the reduction or refining of ores or metals, shall not exceed eight hours within any twenty-four hours, and the hours of employment in such employment or work day shall be consecutive, excluding, however, any intermission of time for lunch or meals; *provided*, that in the case of emergency where life or property is in imminent danger, the period may be a longer time during the continuance of the exigency or emergency.

SEC. 2. Any person who shall violate any provision of this act, and any person who as foreman, manager, director or officer of a corporation, or as the employer or superior officer of any person, shall command, persuade or allow any person to violate any provision of this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00), or by imprisonment of not more than three months. And the court shall have discretion to impose both fine and imprisonment as herein provided.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

The foregoing statute was held to be constitutional: *Ex parte Martin*, 106 Pac. Rep. 235.

ACT No. 2553.

(Stats. 1909, page 383.)

Vacations.

SECTION 1. Each employee regularly employed at the state hospitals and each employee regularly employed in the service of any of the state commissions or state boards or in the state printing office who shall have been employed for a period of not less than six months shall be allowed, during each year

of his service, a vacation of not less than fifteen days' duration; said vacation to be without loss of pay, and the time allowed for said vacation to be designated by the management of such state hospitals, and by the members of the state commissions and state boards and by the superintendent of state printing.

SEC. 2. This act shall take effect immediately.

ACT No. 2665.

(Stats. 1905, page 28.)

Hours of labor of drug clerks.

Limit of ten hours per day.

SECTION 1. As a measure for the protection of public health, no person employed by any person, firm or corporation, shall for more than an average of ten hours a day or sixty hours a week of six consecutive calendar days perform the work of selling drugs or other medicines, or compounding physicians' prescriptions, in any store, establishment or place of business, where and in which drugs or medicines are sold at retail, and where and in which physicians' prescriptions are compounded; *provided*, that the answering of and attending to emergency calls shall not be construed as a violation of this act.

Employers restricted.

SEC. 2. No person, firm or corporation employing another person to do work which consists wholly or in part of selling, at retail, drugs or medicines, or of compounding physicians' prescriptions, in any store, or establishment or place of business where or in which medicines are sold and where and in which physicians' prescriptions are compounded shall require or permit said employed person to perform such work for more than an average of ten hours a day, or sixty hours a week of six consecutive calendar days.

Violations.

SEC. 3. Any person, firm or corporation violating any of the provisions of this act shall be deemed guilty of misdemeanor and shall be punished therefor by a fine not less than twenty dollars nor more than fifty dollars or by imprisonment for not exceeding sixty days, or by both such fine and imprisonment, at the discretion of the court.

Enforcement.

SEC. 5 (added Stats. 1907, pp. 273, 274). The commissioners of the state bureau of labor statistics are [*sic*] hereby authorized, directed and empowered to enforce the provisions of this act.

ACT No. 2838.

(Stats. 1883, page 366.)

Plumbers to be registered.

SECTION 1. Every master or journeyman plumber carrying on his trade shall, under such rules and regulations as the board of health of such county, or city and county, shall prescribe, register his name and address at the health office of such county, or city and county; and after the said date it shall not be lawful for any person to carry on the trade of plumbing in any county, or city and county, unless his name and address be registered as above provided. Registration required.

SEC. 2. A list of the registered plumbers shall be published in the yearly report of the health office. List to be published.

ACT No. 2839.

(Stats. 1885, page 12.)

Examination and licensing of plumbers.

SECTION 1. It shall not be lawful for any person to carry on business, or labor as a master or journeyman plumber, in any incorporated city, or in any city and county, in this state until he shall have obtained from the board of health of said city or city and county a license authorizing him to carry on business, or labor as such mechanic. A license so to do shall be issued only after a satisfactory examination by the board of each applicant upon his qualifications to conduct such business or to so labor. All applications for license, and all licenses issued, shall state the name in full, age, nativity, and place of residence of the applicant or person so licensed. It shall be the duty of the secretary of each board of health to keep a record of all such licenses issued, together with an alphabetical index to the same. License required. Examination.

SEC. 2. A list of all licensed plumbers shall be published in the yearly report of the health officer or board of health. List.

ACT No. 2894.

(Stats. 1897, page 201.)

Rates of wages of employees on public works.

SECTION 1. The minimum compensation to be paid for labor upon all work performed under the direction, control, $2 a minimum wage.

or by the authority of any officer of this state acting in his official capacity, or under the direction, control, or by the authority of any municipal corporation within this state, or of any officer thereof acting as such, is hereby fixed at two (2) dollars per day; and a stipulation to that effect must be made a part of all contracts to which the state, or any municipal corporation therein, is a party; *provided, however*, that this act shall not apply to persons employed regularly in any of the public institutions of the state, or any city, city and county, or county.

Proviso.

ACT No. 3574*a*.

(Stats. 1909, page 209.)

Employment of children—Enforcement of laws.

SECTION 1. All minors coming within the provisions of an act entitled "An act regulating the employment and hours of labor of children, prohibiting the employment of minors under certain ages, prohibiting the employment of certain illiterate minors, providing for the enforcement hereof by the commissioner of the bureau of labor statistics and providing penalties for the violation hereof," (approved February 20, 1905,) and found employed and at work without the necessary legal authorization as provided for and required in said act, and whose ages are between the maximum and minimum age limits as described in an act entitled, "An act to enforce the educational rights of children and providing penalties for violation of the act," shall be placed or delivered into the custody of the school district authorities of the county, city, or city and county in which they are found illegally at work.

SEC. 2. The commissioner of the bureau of labor statistics is hereby authorized, directed and empowered to enforce the provisions of this act.

SEC. 3. This act shall take effect immediately.

STATUTES OF 1911.

CHAPTER 49.

Railroads—Full crews.

An act to promote the safety of employees and travelers upon railroads by compelling common carriers by railroad to properly man their trains.

[Approved February 20, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Full crew. SECTION 1. It shall be unlawful for any common carrier by railroad in the State of California operating more than four trains each way per day of twenty-four hours on any main track or branch line of railroad within this state to run, or permit to be run, any passenger, mail, or express train propelled or drawn by steam locomotive that has not at least the following named employees thereon: One engineer, one fireman, one conductor, one brakeman, one baggageman; *provided*, that on any such train upon which baggage is not hauled a baggageman need not be employed; *provided, further*, that on any such train where four passenger coaches or cars exclusive of railroad officers' private cars, or more than four passenger coaches or cars are hauled, two brakemen instead of one shall be employed.

Passenger train.

Freight train. SEC. 2. It shall be unlawful for any such common carrier to run, or permit to be run, any freight or work train propelled or drawn by steam locomotive that has not at least the following named employees thereon: One engineer, one fireman, one conductor, two brakemen; *provided*, that on any such freight or work train composed of fifty cars or more, three brakemen instead of two shall be employed.

Minimum crew. SEC. 3. It shall be unlawful for any such common carrier to run or permit to be run any train propelled or drawn by steam locomotive other than those trains described in section 1 and section 2 of this act, that have not at least the following named employees thereon: One engineer, one fireman, one conductor, and one brakeman; *provided*, that nothing in this section contained shall apply to an engine or

Relief train.

engines without cars; nor to any relief train or wrecking train in any case where a sufficient number of employees to comply with this section are not available for service on such relief or wrecking train.

Engineer.

SEC. 4. It shall be unlawful for any such common carrier to employ any person as a steam locomotive engineer who shall not have had at least two years' actual service as a steam locomotive fireman, or one year of actual service as a steam locomotive engineer, or to employ any person as a conductor who shall not have had at least two years of actual service as a railroad brakeman, or one year at actual service as a railroad conductor, or to employ any person as a brakeman who shall not have passed the regular examination required by transcontinental railroads; *provided*, that nothing in this section contained shall apply to the running or operating of steam locomotives to or from trains at divisional terminals by hostlers or to the running or operating of steam locomotives to and from engine houses or to the doing of work on steam locomotives at shops and engine houses.

Conductor.

Brakeman.

Penalty.

SEC. 5. Any violation of this act shall be deemed a misdemeanor, and shall be punished, upon conviction, by fine not exceeding five hundred dollars, or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment.

Strikes.

SEC. 6. Nothing in this act contained shall apply to the operation of any train by common carriers during times of strikes or walkouts, participated in by any of the hereinbefore mentioned employees of such common carriers.

CHAPTER 92.

Payment of wages—Must be negotiable.

An act prohibiting the issuance as payment for wages of any evidence of indebtedness unless the same is negotiable and payable without discount, and providing that the same must be payable upon demand.

[Approved March 1, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Negotiable order in payment of wages.

SECTION 1. No person, firm, or corporation engaged in any business or enterprise within this state shall issue, in payment of or as an evidence of indebtedness for wages due

an employee, any order, check, memorandum or other acknowledgment of indebtedness, unless the same is negotiable, and is payable upon demand without discount in cash at some bank or other established place of business in the state; *provided, however*, that the provisions of this act shall not apply to counties, cities and counties, municipal corporations, quasi-municipal corporations, or school districts organized and existing under the laws of this state.

SEC. 2. Any person, firm, or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

CHAPTER 258.

Eight-hour law for women.

An act limiting the hours of labor of females employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or telegraph or telephone establishment or office, or by any express or transportation company; compelling each employer in any manufacturing, mechanical, or mercantile establishment, laundry, hotel or restaurant, or other establishment employing any female to provide suitable seats for all female employees and to permit them to use such seats when they are not engaged in the active duties of their employment; and providing a penalty for failure, neglect or refusal of the employer to comply with the provisions of this act, and for permitting or suffering any overseer, superintendent, foreman or other agent of any such employer to violate the provisions of this act.

[Approved March 22, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

SECTION 1. No female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or telegraph or telephone establishment or office, or by any express or transportation company in this state more than eight hours during any one day or more than forty-eight hours in one week. The hours of work may be so

Hours of work for females.

arranged as to permit the employment of females at any time so that they shall not work more than eight hours during the twenty-four hours of one day, or forty-eight hours during any one week; *provided, however,* that the provisions of this section in relation to the hours of employment shall not apply to nor affect the harvesting, curing, canning or drying of any variety of perishable fruit or vegetable.

Seats for females.

SEC. 2. Every employer in any manufacturing, mechanical or mercantile establishment, laundry, hotel, or restaurant, or other establishment employing any female, shall provide suitable seats for all female employees, and shall permit them to use such seats when they are not engaged in the active duties of their employment.

Penalty.

SEC. 3. Any employer who shall require any female to work in any of the places mentioned in section one more than the number of hours provided for in this act during any day of twenty-four hours, or who shall fail, neglect, or refuse to so arrange the work of females in his employ so that they shall not work more than the number of hours provided for in this act during any day of twenty-four hours, or who shall fail, neglect, or refuse to provide suitable seats as provided in section two of this act, or who shall permit or suffer any overseer, superintendent, foreman, or other agent of any such employer to violate any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense not less than fifty dollars nor more than two hundred dollars, or imprisoned in the county jail not less than five nor more than thirty days, or both fined and imprisoned.

CHAPTER 399.

Employers' liability law.

An act relating to the liability of employers for injuries or death sustained by their employees, providing for compensation for the accidental injury of employees, establishing an industrial accident board, making an appropriation therefor, defining its powers and providing for a review of its awards.

[Approved April 8, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

SECTION 1. In any action to recover damages for a personal injury sustained within this state by an employee while

engaged in the line of his duty or the course of his employment as such, or for death resulting from personal injury so sustained, in which recovery is sought upon the ground of want of ordinary or reasonable care of the employer, or of any officer, agent or servant of the employer, the fact that such employee may have been guilty of contributory negligence shall not bar a recovery therein where his contributory negligence was slight and that of the employer was gross, in comparison, but the damages may be diminished by the jury in proportion to the amount of negligence attributable to such employee, and it shall be conclusively presumed that such employee was not guilty of contributory negligence in any case where the violation of any statute enacted for the safety of employees contributed to such employee's injury; and it shall not be a defense: Contributory negligence not a bar to recovery.

(1) That the employee either expressly or impliedly assumed the risk of the hazard complained of. Assumption of risk no defense.

(2) That the injury or death was caused in whole or in part by the want of ordinary or reasonable care of a fellow servant. Fellow servant doctrine abrogated.

SEC. 2. No contract, rule or regulation, shall exempt the employer from any of the provisions of the preceding section of this act. Employer not exempted by contract.

SEC. 3. Liability for the compensation hereinafter provided for, in lieu of any other liability whatsoever, shall, without regard to negligence, exist against an employer for any personal injury accidentally sustained by his employees, and for his death if the injury shall approximately cause death, in those cases where the following conditions of compensation concur: Employer liable for compensation.

(1) Where, at the time of the accident, both the employer and employee are subject to the provisions of this act according to the succeeding sections hereof. When both parties subject to act.

(2) Where, at the time of the accident, the employee is performing service growing out of and incidental to his employment and is acting within the line of his duty or course of his employment as such. When employee performing duty.

(3) Where the injury is approximately caused by accident, either with or without negligence, and is not so caused by the wilful misconduct of the employee. Where wilful misconduct not cause of injury.

And where such conditions of compensation exist for any personal injury or death, the right to the recovery of such

Right to recovery is exclusive remedy unless employer grossly negligent.

compensation pursuant to the provisions of this act, and acts amendatory thereof, shall be the exclusive remedy against the employer for such injury or death, except that when the injury was caused by the personal gross negligence or wilful personal misconduct of the employer, or by reason of his violation of any statute designed for the protection of employees from bodily injury, the employee may, at his option, either claim compensation under this act, or maintain an action for damages therefor; in all other cases the liability of the employer shall be the same as if this and the succeeding sections of this act had not been passed, but shall be subject to the provisions of the preceding sections of this act.

SEC. 4. The following shall constitute employers subject to the provisions of this act within the meaning of the preceding section:

Employer defined.

(1) The state, and each county, city and county, city, town, village and school districts and all public corporations, every person, firm, and private corporation, (including any public service corporation) who has any person in service under any contract of hire, express or implied, oral or written, and who, at or prior to the time of the accident to the employee for which compensation under this act may be claimed, shall, in the manner provided in the next section, have elected to become subject to the provisions of this act, and who shall not, at the time of such accident, have withdrawn such election, in the manner provided in the next section.

Employers subject to provisions of act.

SEC. 5. Such election on the part of the employer shall be made by filing with the industrial accident board, hereinafter provided for a written statement to the effect that he accepts the provisions of this act, the filing of which statement shall operate, within the meaning of section three of this act, to subject such employer to the provisions of this act and all acts amendatory thereof for the term of one year from the date of the filing of such statement, and thereafter, without further act on his part, for successive terms of one year each, unless such employer shall, at least sixty days prior to the expiration of such first or any succeeding year, file in the office of said board a notice in writing to the effect that he withdraws his election to be subject to the provisions of the act.

SEC. 6. The term "employee" as used in section three of this act shall be construed to mean:

(1) Every person in the service of the state, or any county, city and county, city, town, village or school district therein, and all public corporations, under any appointment or contract of hire, express or implied, oral or written, except any official of the state, or of any county, city and county, city, town, village or school district therein or any public corporation, who shall have been elected or appointed for a regular term of one or more years, or to complete the unexpired portion of any such regular term. Employee defined.

(2) Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens, and also including minors who are legally permitted to work under the laws of the state, (who, for the purposes of the next section of this act, shall be considered the same and shall have the same power of contracting as adult employees,) but not including any person whose employment is but casual and not in the usual course of the trade, business, profession or occupation of his employer.

SEC. 7. Any employee as defined in subsection (1) of the preceding section shall be subject to the provisions of this act and of any act amendatory thereof. Any employee as defined in subsection (2) of the preceding section shall be deemed to have accepted and shall, within the meaning of section 3 of this act be subject to the provisions of this act and of any act amendatory thereof, if, at the time of the accident upon which liability is claimed: Employees subject to provisions of act.

(1) The employer charged with such liability is subject to the provisions of this act, whether the employee has actual notice thereof or not; and

(2) At the time of entering into his contract of hire, express or implied, with such employer, such employee shall not have given to his employer notice in writing that he elects not to be subject to the provisions of this act, or, in the event that such contract of hire was made in advance of such employer becoming subject to the provisions of the act, such employee shall, without giving such notice, remain in the service of such employer for thirty days after the employer has filed with said board an election to be subject to the terms of this act.

SEC. 8. Where liability for compensation under this act exists the same shall be as provided in the following schedule:

Medical and surgical treatment and supplies.

(1) Such medical and surgical treatment, medicines, medical and surgical supplies, crutches and apparatus, as may be reasonably required at the time of the injury and thereafter during the disability, but not exceeding ninety days, to cure and relieve from the effects of the injury, the same to be provided by the employer, and in case of his neglect or refusal seasonably to do so, the employer to be liable for the reasonable expense incurred by or on behalf of the employee in providing the same; *provided, however*, that the total liability under this subdivision shall not exceed the sum of $100.00.

Time of payment.

(2) If the accident causes disability, an indemnity which shall be payable as wages on the eighth day after the injured employee leaves work as the result of the injury, and weekly thereafter, which weekly indemnity shall be as follows:

Payment in total disability.

(*a*) If the accident causes total disability, sixty-five per cent of the average weekly earnings during the period of such total disability; *provided*, that if the disability is such as not only to render the injured employee entirely incapable of work, but also so helpless as to require the assistance of a nurse, the weekly indemnity during the period of such assistance shall be increased to one hundred per cent of the average weekly earnings.

Payment in partial disability.

(*b*) If the accident causes partial disability, sixty-five per cent of the weekly loss in wages during the period of such partial disability.

(*c*) If the disability caused by the accident is at times total and at times partial, the weekly indemnity during the periods of each such total or partial disability shall be in accordance with said subsections (*a*) and (*b*), respectively.

(*d*) Said subsections (*a*), (*b*) and (*c*) shall be subject to the following limitations:

Disability indemnity limited.

Aggregate disability indemnity for a single injury shall not exceed three times the average annual earnings of the employee.

No indemnity recoverable.

If the period of disability does not last more than one week from the day the employee leaves work as the result of the accident no indemnity whatever shall be recoverable.

If the period of disability lasts more than one week from the day the employee leaves work as the result of the accident, no indemnity shall be recoverable for the first week of the period of such disability.

The aggregate disability period shall not, in any event extend beyond fifteen years from the date of the accident. Disability period limited.

(3) The death of the injured employee shall not affect the obligation of the employer under subsections (1) and (2) of this section, so far as his liability shall have accrued and become payable at the time of the death, but the death shall be deemed the termination of disability, and the employer shall thereupon be liable for the following death benefits in lieu of any further disability benefits; *provided*, that such death was approximately caused by the accident causing such disability: Liability in case of death.

(*a*) In case the deceased employee leaves a person or persons wholly dependent upon him for support, the death benefit shall be a sum sufficient when added to the benefits which shall, at the time of death, have accrued and become payable under the provisions of subsection (2) of this section to make the total compensation for the injury and death, exclusive of the benefit provided for in subsection (1), equal to three times his annual average earnings, not less than $1,000 nor more than $5,000, the same to be payable, unless and until the industrial accident board shall otherwise direct, in weekly installments corresponding in amount to the weekly earnings of the employee. Death indemnity when recipient wholly dependent.

(*b*) In case the deceased employee leaves no one wholly dependent on him for support, but one or more persons partially dependent therefor, the death benefit shall be such percentage of three times such average annual earnings of the employee as the annual amount devoted by the deceased to the support of the person or persons so partially dependent upon him for support bears to such average earnings, the same to be payable, unless and until the industrial accident board shall otherwise direct, in weekly installments corresponding to the weekly earnings of the employee; *provided*, that the total compensation for the injury and death, exclusive of the benefit provided for in said subsection (1) shall not exceed three times such average annual earnings. Death indemnity recipient partially dependent.

(*c*) In the event that the accident shall have approximately caused permanent disability, either total or partial, and the employee shall die within fifteen years after the date of the accident, liability for the death benefits provided for in said subsections (*a*) and (*b*) respectively shall exist only where the accident was the approximate cause of death within said period of fifteen years.

Funeral expenses.

(*d*) If the deceased employee leaves no person dependent upon him for support, and the accident approximately causes death, the death benefit shall consist of the reasonable expenses of his burial not exceeding $100.

Average annual earnings.

SEC. 9. (1) The weekly earning referred to in section 8 shall be one fifty-second of the average annual earnings of the employee; average annual earnings shall not be taken at less than $333.33, nor more than $1,666.66, and between said limits shall be arrived at as follows:

(*a*) If the injured employee has worked in such employment, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he has earned as such employee during the days when so employed.

Three hundred times average daily wage.

(*b*) If the injured employee has not so worked in such employment during substantially the whole of such immediately preceding year, his average annual earnings shall consist of three hundred times the average daily wage or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or a similar employment in the same or a neighboring place shall have earned during the days when so employed.

Computation in other cases.

(*c*) In cases where the foregoing methods of arriving at the average annual earnings of the injured employee can not reasonably and fairly be applied, such annual earnings shall be taken at such sum as having regard to the previous earnings of the injured employee, and of other employees of the same or most similar class, working in the same or most similar employment in the same or neighboring locality, shall reasonably represent the average earning capacity of the injured employee at the time of the injury in the employment in which he was working at such time.

Previous disability not a bar to recovery.

(*d*) The fact that an employee has suffered a previous disability, or received compensation therefor, shall not preclude him from compensation for a later injury, or for death resulting therefrom, but in determining compensation for the later injury, or death resulting therefrom, his average annual earnings shall be such sum as will reasonably represent his annual earning capacity at the time of the later injury, and

shall be arrived at according to the previous provisions of this section.

(2) The weekly loss in wages referred to in section 8, shall consist of the difference between the average weekly earnings of the injured employee, computed according to the provisions of this section, and the weekly amount which the injured employee, in the exercise of reasonable diligence, will probably be able to earn, the same to be fixed as of the time of the accident, but to be determined in view of the nature and extent of the injury. Computation of weekly loss in wages.

(3) The following shall be conclusively presumed to be solely and wholly dependent for support upon a deceased employee: Dependent defined.

(*a*) A wife upon a husband.

(*b*) A husband upon a wife upon whose earnings he is partially or wholly dependent at the time of her death.

(*c*) A child or children under the age of eighteen years (or over said age, but physically or mentally incapacitated from earning), upon the parent with whom he or they are living at the time of the death of such parent, there being no surviving dependent parent. In case there is more than one child thus dependent, the death benefit shall be divided equally among them. In all other cases questions of entire or partial dependency shall be determined in accordance with the fact, as the fact may be at the time of the death of the employee, and in such other cases if there is more than one person wholly dependent, the death benefit shall be divided equally among them and persons partially dependent, if any, shall receive no part thereof, and if there is more than one person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency.

(4) Questions as to who constitute dependents and the extent of their dependency shall be determined as of the date of the death of the employee, and their right to any death benefit shall become fixed as of such time, irrespective of any subsequent change in conditions, and the death benefit shall be directly recoverable by and payable to the dependent or dependents entitled thereto or their legal guardians or trustees.

SEC. 10. No claim to recover compensation under this act shall be maintained unless within thirty days after the occur-

Within thirty days after accident.

rence of the accident which is claimed to have caused the injury or death, notice in writing, stating the name and the address of the person injured, the time and the place where the accident occurred, and the nature of the injury, and signed by the person injured or some one in his behalf, or in case of his death, by a dependent or some one in his behalf, shall be served upon the employer by delivering to and leaving with him a copy of such notice or by mailing to him by registered mail a copy thereof in a sealed and posted envelope addressed to him at his last known place of business or residence. Such mailing shall constitute complete service; *provided, however*, that any payment of compensation under this act, in whole or in part, made by the employer before the expiration of said thirty days shall be equivalent to the notice herein required; *and provided, further*, that the failure to give any such notice, or any defect or inaccuracy therein, shall not be a bar to recovery under this act if it is found as a fact in the proceedings for collections of the claim that there was no intention to mislead the employer, and that he was not in fact misled thereby; *and provided, further*, that if no such notice is given and no payment of compensation made, within one year from the date of the accident, the right to compensation therefor shall be wholly barred.

Failure to give notice not always a bar to recovery.

SEC. 11. Wherever in case of injury the right of compensation under this act would exist in favor of any employee, he shall, upon the written request of his employer, submit from time to time to examination by a regular practicing physician, who shall be provided and paid for by the employer, and shall likewise submit to examination from time to time by any regular physician selected by said industrial accident board, or any member or examiner thereof. The employee shall be entitled to have a physician provided and paid for by himself present at any such examination. So long as the employee, after such written request of the employer, shall refuse to submit to such examination, or shall in any way obstruct the same, his right to begin or maintain any proceeding for the collection of compensation shall be suspended, and if he shall refuse to submit to such examination after direction by the board, or any member or examiner thereof, or shall in any way obstruct the same, his right to the weekly indemnity which shall accrue and become payable during the period of such refusal or obstruction, shall be

barred. Any physician who shall make or be present at any such examination may be required to testify as to the results thereof.

Three members.

SEC. 12. Any dispute or controversy concerning compensation under this act, including any in which the state may be a party, shall be submitted to a board consisting of three members, which shall be known as the industrial accident board. Within thirty days before this act shall take effect, the governor, by and with the advice and consent of the senate, shall appoint a member who shall serve two years, and another who shall serve three years, and another who shall serve four years. Thereafter such three members shall be appointed and confirmed for terms of four years each. Vacancies shall be filled in the same manner for the unexpired term. Each member of the board, before entering upon the duties of his office, shall take the oath prescribed by the constitution. A majority of the board shall constitute a quorum for the exercise of any of the powers or authority conferred by this act, and an award by a majority shall be valid. In case of a vacancy, the remaining two members of the board shall exercise all the powers and authority of the board until such vacancy is filled. Each member of the board shall receive an annual salary of three thousand six hundred dollars.

Four year terms.

Annual salary, $3,600.

Organization of board.

SEC. 13. The board shall organize by choosing one of its members as chairman. Subject to the provisions of this act, it may adopt its own rules of procedure and may change the same from time to time in its discretion. The board, when it shall deem it necessary to expedite its business, may from time to time employ one or more expert examiners for such length of time as may be required. It may also appoint a secretary and such clerical help as it may deem necessary. It shall fix the compensation of all assistants so appointed.

Office in San Francisco.

SEC. 14. The board shall keep its office at the city of San Francisco, and shall be provided by the secretary of state with a suitable room or rooms, necessary office furniture, stationery, and other supplies. The members of the board and its assistants, shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but such expenses shall be sworn to by the person who incurred the same, and be approved by the chairman of the board, before payment is made. All salaries

Traveling expenses.

and expenses authorized by this act shall be audited and paid out of the general funds of the state the same as other general state expenses are audited and paid.

SEC. 15. Upon the filing with the board by any party in interest of an application in writing stating the general nature of any dispute or controversy concerning compensation under this act, it shall fix a time for the hearing thereof, which shall not be more than forty days after the filing of such application. The board shall cause notice of such hearing to be given to each party interested by service of such notice on him personally or by mailing a copy thereof to him at his last known post office address at least ten days before such hearing. Such hearing may be adjourned from time to time in the discretion of the board, and hearings shall be held at such places as the board shall designate. Either party shall have the right to be present at any hearing, in person or by attorney or any other agent, and to present such testimony as shall be pertinent to the controversy before the board, but the board may, with or without notice to either party, cause testimony to be taken, or inspection of the premises where the injury occurred to be had, or the time books and pay roll of the employer to be examined by any member of the board or any examiner appointed by it, and may from time to time, direct any employee claiming compensation to be examined by a regular physician; the testimony so taken, and the results of any such inspection or examination, to be reported to the board for its consideration upon final hearing. The board, or any member thereof, or any examiner appointed thereby shall have power and authority to issue subpœnas to compel the attendance of witnesses or parties, and the production of books, papers, or records, and to administer oaths. Obedience to such subpœnas shall be enforced by the superior court of any county, or city and county.

Board may take testimony, examine witnesses, etc.

SEC. 16. After final hearing by said board, it shall make and file (1) finding upon all facts involved in the controversy, and (2) its award, which shall state its determination as to the rights of the party.

Findings and awards.

SEC. 17. Either party may present a certified copy of the award to the superior court for any county or city and county, whereupon said court shall, without notice, render a judgment in accordance therewith, which judgment, until and

Filing of judgment.

unless set aside as hereinafter provided, shall have the same effect as though duly rendered in an action duly tried and determined by said court, and shall, with the like effect, be entered and docketed.

SEC. 18. The findings of fact made by the board acting within its powers, shall, in the absence of fraud, be conclusive, and the award, whether judgment has been rendered thereon or not, shall be subject to review only in the manner and upon the grounds following: within thirty days from the date of the award, any party aggrieved thereby may file with the board an application in writing for a review of such award, stating generally the grounds upon which such review is sought; within thirty days thereafter the board shall cause all documents and papers on file in the matter, and a transcript of all testimony which may have been taken therein, to be transmitted with their findings and award to the clerk of the superior court of that county or city and county wherein the accident occurred; such application for a review may thereupon be brought on for hearing before said court upon such record by either party on ten days' notice to the other, subject, however, to the provisions of law for a change of the place of trial or the calling of another judge. Upon such hearing the court may confirm or set aside such award, and any judgment which may theretofore have been rendered thereon, but the same shall be set aside only upon the following grounds:

Court may confirm or set aside award.

(1) That the board acted without or in excess of its powers.

(2) That the award was procured by fraud.

(3) That the findings of fact by the board do not support the award.

SEC. 19. Upon the setting aside of any award the court may recommit the controversy and remand the record in the case to the board, for further hearing or proceedings, or it may enter the proper judgment upon the findings, as the nature of the case shall demand. An abstract of the judgment entered by the trial court upon the review of any award shall be made by the clerk thereof upon the docket entry of any judgment which may theretofore have been rendered upon such award, and transcripts of such abstract may thereupon be obtained for like entry upon the dockets of the courts of other counties, or city and county.

Court may remand for further hearing or may enter judgment.

Appeal from award.

SEC. 20. Any party aggrieved by a judgment entered upon the review of any award, may appeal therefrom within the time and in the manner provided for an appeal from the orders of the superior court; but all such appeals shall be placed on the calendar of the supreme court and brought to a hearing in the same manner as criminal causes on such calendar.

Fees and costs.

SEC. 21. No fees shall be charged by the clerk of any court for the performance of any official service required by this act, except for the docketing of judgments and for certified copies or transcripts thereof. In proceedings to review an award, costs as between the parties shall be allowed or not in the discretion of the court.

Assignment of claim.

SEC. 22. No claim for compensation under this act shall be assignable before payment, but this provision shall not affect the survival thereof; nor shall any claim for compensation, or compensation awarded, adjudged or paid, be subject to be taken for the debts of the party entitled thereto.

Preference of claim.

SEC. 23. A claim for compensation for the injury or death of any employee, or any award or judgment entered thereon, shall be entitled to a preference over the other debts of the employer if and to the same extent as the wages of such employee shall be so preferred; but this section shall not impair the lien of any judgment entered upon any award.

Right of employer to insure.

SEC. 24. Nothing in this act shall affect the organization of any mutual or other insurance company, or any existing contract for insurance or employers' liability, nor the right of the employer to insure in mutual or other companies, in whole or in part, against such liability, or against the liability for the compensation provided for by this act, or to provide by mutual or other insurance, or by arrangement with his employees, or otherwise, for the payment to such employees, their families, dependents, or representatives, of sick, accident or death benefits, in addition to the compensation provided for by this act. But liability for compensation under this act shall not be reduced or affected by any insurance, contributions, or other benefit whatsoever due to or received by the person entitled to such compensation, and the person so entitled shall, irrespective of any insurance or other contract, have the right to recover the same directly from the employer, and in addition thereto, the right to enforce in his own name, in the manner provided in this act, the liability

of any insurance company, which may, in whole or in part, have insured the liability for such compensation; *provided, however*, that payment in whole or in part of such compensation by either the employer or the insurance company, shall, to the extent thereof, be a bar to recovery against the other of the amount so paid; *and provided, further*, that as between the employer and the insurance company, payment by either directly to the employee, or to the person entitled to compensation, shall be subject to the conditions of the insurance contract between them. Insurance company liable.

SEC. 25. Every contract for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this act, and provisions thereof inconsistent with this act shall be void. No company shall enter into any such contract of insurance unless such company shall have been approved by the commissioner of insurance, as provided by law. Contract for insurance subject to act.

SEC. 26. The making of a lawful claim against an employer for compensation under this act for the injury or death of his employee shall operate as an assignment of any assignable cause of action in tort which the employee or his personal representative may have against any other party for such injury or death, and such employer may enforce in his own name the liability of such other party. Release from liability.

SEC. 27. The board shall cause to be printed and furnished free of charge to any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this act; it shall provide a proper record book in which shall be entered and indexed the name of every employer who shall file a statement of election under this act, and the date of the filing thereof, and a separate book in which shall be entered and indexed the name of every employer who shall file his withdrawal of such election, and the date of the filing thereof; and a book in which shall be recorded all awards made by the board; and such other books or records as it shall deem required by the proper and efficient administration of this act; all such records to be kept in the office of the board. Upon the filing of a statement of election by an employer to become subject to the provisions of this act, the board shall forthwith cause notice of the fact to be given to his employees, by posting and keeping continuously posted in a public and conspicuous place such notice Blank forms. Record books. Notice of election by employer.

thereof in the office, shop, or place of business of the employer, or by publishing, or in such other manner as the board shall deem most effective, and the board shall cause notice to be given in like manner of the filing of any withdrawal of such election; but notwithstanding the failure to give, or the insufficiency of, any such notice, knowledge of all filed statements of election and withdrawals of election, and of the time of the filing of the same, shall conclusively be imputed to all employees.

Right to compromise.

SEC. 28. Nothing in this act contained shall be construed as impairing the right of parties interested, after the injury or death of an employee, to compromise and settle, upon such terms as they may agree upon, any liability which may be claimed to exist under this act on account of such injury or death, nor as conferring upon the dependents of any injured employee any interest which he may not divert by such settlement or for which he or his estate shall, in the event of such settlement by him, be accountable to such dependents or any of them.

Appropriation.

SEC. 29. The sum of fifty thousand dollars is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, to be used by the industrial accident board in carrying out the purposes of this act, and the controller is hereby directed to draw his warrant on the general fund from time to time in favor of said industrial accident board for the amounts expended under its direction, and the treasurer is hereby authorized and directed to pay the same.

SEC. 30. All acts or parts of acts inconsistent with this act are hereby repealed.

SEC. 31. This act shall take effect and be in force on and after the first day of September, A. D. 1911.

CHAPTER 484.

Hours of labor on railroads.

An act regulating the hours of labor of conductors, engineers, firemen, brakemen, train dispatchers and telegraph operators employed by any corporation or receiver operating a line of railway in whole or in part in the State of California, and prescribing penalties for violation of this act.

[Approved April 21, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Hours of labor of conductors, etc.

SECTION 1. It shall hereafter be unlawful for any corporation or receiver operating any line of railroad in whole or in part in this state, or any officer, agent or representative of such corporation to require or knowingly permit any conductor, engineer, fireman, brakeman, train dispatcher or telegraph operator to be or remain on duty for a longer period than sixteen consecutive hours, and whenever any such employee shall have been continuously on duty for sixteen hours he shall be relieved and not required or permitted again to go on duty until he has had at least eight consecutive hours off duty.

Hours off duty.

SEC. 2. It shall hereafter be unlawful for any corporation or receiver operating any line of railroad in whole or in part in this state, or any officer, agent, or representative of such company or receiver to require or knowingly permit any conductor, engineer, fireman, brakeman, train dispatcher or telegraph operator, who has been on duty for sixteen consecutive hours and who has gone off duty, to again go on duty or perform any work for such receiver or corporation until he has had at least eight hours off duty.

Penalty for violation.

SEC. 3. Any corporation or receiver operating a line of railroad in whole or in part within this state, who shall violate any of the provisions of this act shall be liable to the State of California in a penalty of not less than two hundred dollars nor more than one thousand dollars for each offense, and such penalties shall be recovered and suit therefor shall be brought in the name of the State of California in any court having jurisdiction of the amount in any county into or through which said railroad may pass. Such suit or suits may be brought either by the attorney general of the state or

under his direction by the district attorney of any county or city and county in the State of California into or through which said railroad may pass.

Officer of railroad liable.

SEC. 4. Any officer, agent or representative of any corporation or receiver operating any line of railroad in whole or in part within this state, who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense, or by confinement in the county jail for not less than ten nor more than sixty days, or by both fine and imprisonment, and such person so offending may be prosecuted under this section, either in the county where such person may be at the time of commission of the offense, or in any county where such employee has been permitted or required to work in violation of this act.

Exceptions.

SEC. 5. *Provided*, that the provisions of this act shall not apply in any case of casualty or unavoidable accident or the act of God; nor where the delay was the result of a cause not known to the carrier or its officer or agent in charge of such employee at the time said employee left a terminal, and which could not have been foreseen; *provided, further*, that the provisions of this act shall not apply to the crews of wrecking or relief trains.

CHAPTER 485.

Occupational diseases, reporting of.

An act to provide for the reporting of occupational diseases.

[Approved April 21, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Reporting of occupational diseases.

SECTION 1. Every medical practitioner attending on or called in to visit a patient whom he believes to be suffering from lead, phosphorus, arsenic or mercury or their compounds, or from anthrax, or from compressed-air illness, contracted as a result of the nature of the patient's employment, shall send to the state board of health a notice stating the name and full postal address and place of employment of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering, and shall be

entitled in respect of every bona fide notice sent in pursuance of this section to a fee of fifty cents, to be paid as part of the expense incurred by the state board of health in the execution of this act.

Penalty for neglect.

SEC. 2. If any medical practitioner, when required by this act to send a notice, wilfully fails forthwith to send the same, as provided by this act, he shall be guilty of a misdemeanor, and upon conviction of the same shall be fined not more than ten dollars.

Enforcement.

SEC. 3. It shall be the duty of the state board of health to enforce the provisions of this act, and it may call upon local boards of health and health officers for assistance and it shall be the duty of all boards and officers so called upon for such assistance to render the same. It shall furthermore be the duty of said state board of health to transmit such data to the commissioner of the bureau of labor statistics.

CHAPTER 499.

Electricity—Regulating erections of poles, etc.

An act regulating the placing, erection, use and maintenance of electric poles, wires, cables and appliances, and providing the punishment for the violation thereof.

[Approved April 22, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

SECTION 1. No commission, officer, agent or employee of the State of California, or of any city and county or city or county or other political subdivision thereof, and no other person, firm, or corporation shall

(*a*) Run, place, erect or maintain any wire or cable used to conduct or carry electricity, on any pole, or any crossarm, bracket or other appliance attached to such pole, within a distance of thirteen (13) inches from the center line of said pole; *provided*, that the foregoing provisions of this paragraph (*a*) shall be held not to apply to telephone, telegraph or other "signal" wires or cables which are attached to a pole to which is attached no wire or cable other than telephone, telegraph or other "signal" wire or cable, except within the corporate limits of any city or town which shall have been incorporated as a municipality, nor shall the fore-

Provisions not applicable to telephone wires, etc.

going provisions be held to apply to such wires or cables in cases where the same are run from underground and placed vertically on poles, nor to "bridle" or "jumper" wires on any pole which are attached to telephone, telegraph or other "signal" wires on the same pole, nor to any "aerial" cable, as between such cable and any pole on which it originates or terminates, nor to wires run from "lead" wires to arc lamps or to transformers placed upon poles, nor to any wire or cable where the same is attached to the top of a pole, as between it and the said pole, nor to any "aerial" cable containing telephone, telegraph or other "signal" wires where the same is attached to a pole on which no other wires or cables than wires continuing from said cable are maintained; *provided*, that electric light or power wires or cables are in no case maintained on the same side of the street or highway on which said "aerial" cable is placed.

Electric wire within thirteen inches of pole.

(*b*) Run, place, erect or maintain in the vicinity of any pole (and unattached thereto) within the distance of thirteen (13) inches from the center line of said pole, any wire or cable used to conduct or carry electricity, or place, erect or maintain any pole (to which is attached any wire or cable used to conduct or carry electricity) within the distance of thirteen (13) inches (measured from the center of such pole) from any wire or cable used to conduct or carry electricity; *provided*, that as between any wire or cable and any pole, as in this paragraph (*b*) named, only the wire, cable or pole last in point of time run, placed or erected, shall be held to be run, placed, erected or maintained in violation of the provisions of this paragraph; *and further provided*, that the provisions of this paragraph (*b*) shall not be held to apply to telephone, telegraph or other "signal" wires or cables on poles to which are attached no other wires, as between such wires and poles to which are attached no other wires or cables than telephone, telegraph or other "signal" wires; *provided*, such wires, cables and poles are not within the corporate limits of any town or city which shall have been incorporated as a municipality.

Last wire, etc., run in violation.

Wires within four feet of each other.

(*c*) Run, place, erect or maintain, above ground, within the distance of four (4) feet from any wire or cable conducting or carrying less than six hundred volts of electricity, any wire or cable which shall conduct or carry at any one time more than six hundred volts of electricity, or run, place,

erect or maintain within the distance of four (4) feet from any wire or cable which shall conduct or carry at any one time more than six hundred volts of electricity any wire or cable conducting or carrying less than six hundred volts of electricity; *provided*, that the foregoing provisions of this paragraph (*c*) shall be held not to apply to any wires or cables attached to a transformer, within a distance of four (4) feet, (measured along the line of said wire or cable) from the point where such wire or cable is attached to such transformer, nor to wires or cables within buildings or other structures, nor to wires or cables where the same are run from underground and placed vertically on poles, nor to any "lead" wires or cables between the point where the same are made to leave any pole for the purpose of entering any building or other structure, and the point at which they are made to enter such building or structure; *and provided, further*, that as between any two wires or cables, or any wire or any cable run, placed, erected or maintained in violation of the provisions of this paragraph (*c*), only the wire or cable last in point of time run, placed or erected shall be held to be run, placed, erected or maintained thus in violation of said provision; *and further provided*, that where no more than one crossarm is maintained on a pole, all the wires or cables conducting or carrying at any one time more than six hundred volts of electricity shall be placed on the crossarm on one side of the pole, and all the wires or cables conducting or carrying less than six hundred volts of electricity shall be placed on the crossarm on the other side of the pole; *and further provided*, that the space between any wire or cable carrying or conducting at any one time more than six hundred volts of electricity and any wire or cable carrying less than said voltage shall be at least thirty-six (36) inches clear measurement in a horizontal line; *and further provided*, that where two or more systems for the distribution of electric light or power occupy the same poles with wires or cables, all wires or cables conducting or carrying at any one time more than six hundred volts of electricity shall be placed on the crossarms on one side of the pole, and all wires or cables conducting or carrying less than said voltage shall in such case be placed on the crossarms on the other side of the pole; *and further provided*, that the space between any wire or cable conducting or carrying at any one time more

Two systems occupying same poles.

than six hundred volts of electricity and any wire or cable conducting or carrying less than said voltage shall be at least thirty-six (36) inches in measurement in a horizontal line; *and further provided*, that in such construction all crossarms shall be at least thirty-six (36) inches apart in a vertical line.

Crossarms holding wire carrying more than 600 volts to be painted yellow.

(*d*) Run, place, erect or maintain any wire or cable, which shall conduct or carry at any one time more than six hundred volts of electricity, without causing each crossarm, or such other appliance as may be used in lieu thereof, to which such wire or cable is attached to be kept at all times painted a bright yellow color; or, on such crossarm, or other appliance used in lieu thereof, shall be placed enameled iron signs, providing, in white letters on a green background, the words "High voltage," and these letters shall be not less than three (3) inches in height, said signs shall be securely fastened on the face and back of each crossarm. The provisions of this paragraph (*d*) shall not be held to apply to crossarms to which are attached wires or cables carrying or conducting more than ten thousand volts of electricity, and which are situated outside the corporate limits of any town or city which shall have been incorporated as a municipality.

Guy wires to be insulated.

(*e*) Run, place, erect or maintain any "guy" wire or "guy" cable attached to any pole or appliance to which is attached any wire or cable used to conduct or carry electricity, without causing said "guy" wire or "guy" cable to be effectively insulated at all times at a distance of not less than four (4) feet nor more than eight (8) feet (measured along the line of said wire or cable) from the upper end thereof, and at a point not less than eight (8) feet vertically above the ground from the lower end thereof; *and further provided*, that wherever two or more "guy" wires or "guy" cables are attached to a pole there shall be at least one foot, vertical space, between the points of attachment; *and further provided*, that no insulation shall be required at the lower end of a "guy" wire or "guy" cable where the same is attached to a grounded anchor; none of the provisions of this paragraph (*e*) shall be held to apply to "guy" wires or "guy" cables attached to poles carrying no wire or cable other than telephone, telegraph or other "signal" wire or cable, and which are situated outside the corporate limits of any town or city which shall have been incorporated as a municipality.

(*f*) Run, place, erect or maintain, vertically on any pole, any wire or cable used to conduct or carry electricity, without causing such wire or cable to be at all times wholly encased in casing equal in durability and insulating efficiency to a wooded casing not less than one and one half inches thick. The provisions of this paragraph (*f*) shall not be held to apply to vertical telephone, telegraph or other "signal" wires or cables on poles where no other than such wires or cables are maintained, and which are outside the corporate limits of any town or city which shall have been incorporated as a municipality. Vertical wires to be insulated.

(*g*) Place, erect or maintain on any pole, or on any cross-arm or other appliance on said pole, which carries or upon which is placed an electric arc lamp, any transformer for transforming electric currents. Arc lamps may not be placed on poles with transformers.

(*h*) Run, place, erect or maintain any wire or cable carrying more than fifteen thousand volts of electricity across any wire or cable carrying less than said voltage or across any public highway, except on poles of such height and so placed at each crossing that under no circumstances can said wire or cable of said voltage higher than fifteen thousand volts in case of breakage thereof or otherwise, come in contact with any wire or cable of less than said voltage, or fall within a distance of ten (10) feet from the surface of any public highway; or in lieu thereof double strength construction may be installed, in which case the wires carrying a voltage higher than fifteen thousand volts shall, between the points of crossing, be of a cross-section area equal to at least twice that used in the line outside of such crossing, except where the conductor used is equal to four naught (0000) Brown and Sharpe gauge or greater, in which case the wires or cables will be considered as complying with the law. Wires carrying more than 15,000 volts.

(*i*) Run, place, erect or maintain any suspension wire to which is attached any "aerial" cable of "seventy-five pair number nineteen Brown and Sharpe gauge" or over, or of "one hundred pair number twenty-two Brown and Sharpe gauge" or over, suspended from a crossarm (or from any other structure or appliance from which said suspension wire is hung) by a single bolt and clamp without at the same time attaching said suspension wire to said crossarm, structure or appliance by an additional "safety" bolt and clamp (or other "safety" appliance for thus attaching said suspension wire) Safety bolts for suspension wires.

of tensile strength equal to the first herein said bolt and clamp.

Preceding not applicable to direct current wires, etc.

SEC. 2. None of the provisions of the preceding section shall be held to apply to "direct current" electric wires or cables having the same polarity, nor to "signal" wires when no more than two (2) of such "signal" wires are attached to any one pole; *provided*, that none of such "direct current" or "signal" wires shall in any case be run, placed, erected or maintained within the distance of thirteen (13) inches from the center line of any pole (other than the pole or poles on which said wires or cables are carried) carrying electric wires or cables; *and provided, further*, that as between any two wires, or cables, or any wire or cable run, placed, erected or maintained in violation of the provisions of this section 2 only the wire or cable last in point of time run, placed, erected or maintained shall be held to be run, placed, erected or maintained thus in violation of said provisions.

Span wires.

SEC. 3. No commission, officer, agent or employee of the State of California, or of any city and county or city or county or other political subdivision thereof, and no other person, firm or corporation shall run, place, erect or maintain any "span" wire attached to any wire or cable used to conduct or carry electricity, without causing said "span" wire to be at all times effectively insulated between the outer point at which it is in any case fastened to the pole or other structure by which it is hung or supported, and at the point at which it is in any case thus attached; *provided*, that such insulation shall not in any case be placed less than two (2) feet nor more than four (4) feet from said point at which said "span" wire is so attached, and that when in any case such "span" wire is attached along its length to any two (2) such wires or cables, conducting or carrying electricity and extending parallel to each other, not more than ten (10) feet apart, such insulation shall not be required therein at any point between such parallel wires or cables; none of the provisions of this section (3) shall be held to apply where "feeder" wires are used in place of "span" wires.

Penalty for violation.

SEC. 4. Any violation of any provision of this act shall be deemed to be a misdemeanor, and shall be punishable upon conviction by a fine of not exceeding five hundred dollars ($500.00) or by imprisonment in a county jail not exceeding six (6) months or by both such fine and imprisonment.

SEC. 5. All acts or parts of acts which are in conflict with the, or with any of the provisions of this, act are hereby repealed.

SEC. 6. This act shall take effect six months from the date of its passage in so far as it relates to new work, and a period of five years shall be allowed in which to reconstruct all existing work and construction to comply with the provisions of this act.

CHAPTER 500.

Electricity—Regulating construction of manholes, etc.

An act to regulate the construction and maintenance of subways, manholes, and underground rooms, chambers, and excavations, used to contain, encase, cover, or conduct wires, cables, or appliances to conduct, carry, or handle electricity, and providing the punishment for the violation thereof.

[Approved April 22, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

SECTION 1. No commission, officer, agent, or employee of the State of California or of any city and county or city or county or other political subdivision thereof, and no other person, firm or corporation, shall build or rebuild or cause to be built or rebuilt within the State of California:

Dimensions of electric wire subways.

(*a*) Any subway, manhole, chamber, or underground room used or to be used to contain, encase, cover or conduct any wire, cable, or appliance, to conduct, carry or handle electricity, unless such subway, manhole, chamber or underground room shall have an inside measurement of not less than four (4) feet at the maximum points between the side walls thereof, and between the end walls thereof, and not less than five (5) feet at all points between the floor thereof, and the top or ceiling thereof, or if circular in shape, at least four (4) feet diameter inside measurement, and not less than five (5) feet at all points between the floor and ceiling thereof; *provided, however*, that this paragraph shall not be held to apply to any such subway, manhole, chamber or underground room, within which it is not intended or required that any human being perform work or labor or be employed; *further provided*, that the provisions of this paragraph (*a*)

shall not be held to apply where satisfactory proof shall be submitted to the proper authorities, that it is impracticable or physically impossible to comply with this law within the space or location so designated by the proper municipal authorities.

Openings to outer air.

(*b*) In any subway, manhole, chamber or underground room used or to be used to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, any opening to outer air which is less than twenty-six (26) inches if circular in shape, or less than twenty-four (24) inches by twenty-six (26) inches clear measurement if rectangular in shape.

Openings to be not less than three feet from street-car track.

(*c*) In any subway, manhole, chamber or underground room, used or to be used to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, any opening which is at the surface of the ground, within the distance of three (3) feet at any point from any rail or any railway or street-car track; *provided*, that the provisions of this paragraph (*c*) shall not be held to apply where satisfactory proof shall be submitted to the proper authorities that it is impracticable or physically impossible to comply with this law within the space or location so designated by the proper municipal authorities.

Floor of subway to be of concrete, etc.

(*d*) Any subway, manhole, chamber or underground room, used or to be used to contain, encase, cover or conduct any wire, cable, or appliance to conduct, carry, or handle electricity, unless the floor of such subway, manhole, chamber or underground room is made of stone, concrete, brick, or other similar material not subject to decomposition; *provided*, that this paragraph (*d*) shall not be held to apply to any such subway, manhole, chamber or underground room within which it is not intended or required that any human being perform work or labor or be employed.

Subways to be kept free from seepage, etc.

(*e*) Or maintain any subway, manhole, chamber or underground room, used, or to be used, to contain, encase, cover or conduct any wire, cable or appliance to conduct, carry or handle electricity, unless such subway, manhole, chamber or underground room is kept at all times in a sanitary condition, and free from stagnant water, or seepage, or other drainage, or any offensive matter dangerous to health, either by sewer connection or otherwise; *provided*, that this paragraph (*e*) shall not be held to apply to any such subway, manhole,

chamber or underground room, within which it is not intended or required that any human being perform work or labor or be employed.

SEC. 2. Any violation of any provision of this act shall be deemed a misdemeanor, and shall be punishable upon conviction by a fine not exceeding five hundred (500) dollars, or by imprisonment in a county jail not exceeding six (6) months, or by both such fine and imprisonment. Penalty for violation.

SEC. 3. None of the provisions of subdivisions *a*, *b*, *c*, and *d*, of section one of this act, shall be so construed as to be retroactive or apply to works already constructed, and all acts or parts of acts which are in conflict with this act are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after the date of passage.

CHAPTER 663.

Wages—Time of payment.

An act providing for the time of payment of wages.

[Approved May 1, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

SECTION 1. Whenever an employer discharges an employee, the wages earned and unpaid at the time of such discharge shall become due and payable immediately. When any such employee not having a contract for a definite period quits or resigns his employment the wages earned and unpaid at the time of such quitting or resignation shall become due and payable five days thereafter. Wages of discharged employees.

SEC. 2. All wages other than those mentioned in section one of this act earned by any person during any one month shall become due and payable at least once in each month and no person, firm or corporation for whom such labor has been performed, shall withhold from any such employee any wages so earned or unpaid for a longer period than fifteen days after such wages become due and payable; *provided, however*, that nothing herein shall in any way limit or interfere with the right of any such employee to accept from any such person, firm or corporation wages earned and unpaid for a shorter period than one month. Wages to be paid monthly.

Penalty.

SEC. 3. Any person, firm or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars.

Not applicable.

SEC. 4. None of the provisions of this act shall apply to any county, city and county, incorporated city or town, or other municipal corporation.

CHAPTER 688.

Minors—Vending at night prohibited.

An act to prohibit minors under the age of eighteen years to vend and sell goods, engage in, or conduct any business between the hours of ten o'clock in the evening and five o'clock in the morning, and providing penalties for violations thereof.

[Approved May 1, 1911.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Unlawful for minor under eighteen to conduct business between 10 p. m. and 5 a. m.

SECTION 1. It shall be unlawful for any minor under the age of eighteen years to vend and sell goods, engage in, or conduct any business between the hours of ten o'clock in the evening and five o'clock in the morning.

SEC. 2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than twenty dollars, or by imprisonment for not more than ten days, or by both such fine and imprisonment for each offense.

DIGEST OF APPRENTICE LAWS.

Who may indenture.—A minor of fourteen years of age or over may be bound by his father, or by his mother or guardian in case of the father's death or incompetency, or where the father has wilfully abandoned his family for one year without making suitable provision for their support, or is habitually intemperate or is a vagrant; by an executor who by the will of the father is directed to bring up the child to a trade or calling; by the mother alone if the child is illegitimate; or by the judge of the superior court if the minor is poor, homeless, chargeable to the county or state, or an outcast who has no visible means of obtaining an honest livelihood. If a minor has no parent or guardian competent to act he may, with the approval of the superior court, bind himself. The minor's consent must be expressed in the indenture and testified to by his signing the same.

Term.—A male may be bound until twenty-one and a female until eighteen years of age.

Duty of master.—The master must in the case of an orphan or homeless minor cause the apprentice to be taught reading, writing, and the ground rules of arithmetic, including ratio and proportion, must give him the requisite instruction in the different branches of his trade, and, at the expiration of his term of service, must give him $50 in gold and two new suits of clothes to be worth in the aggregate at least $60. In all cases the master must pay and deliver to the apprentice the money, clothes, and other property to which he is entitled under the indenture.

Interference.—It is unlawful to aid, entice, counsel, or persuade an apprentice to run away, or to employ, harbor, or conceal him, knowing him to be a runaway.

Sources: Civil Code, sections 264 to 276; Penal Code, section 646.

DIGEST OF MECHANICS' LIENS LAWS.

For what given.—A lien may be had to secure payment for labor performed or materials furnished in or for the construction, alteration, addition to, or repair of, any building or other structure; on any railroad, vessel, wharf, bridge, ditch, flume, well, tunnel, fence, machinery, wagon road, mine, or mining claim; for labor done in, with, about, or upon any threshing machine, engine, wagon, or other appliance used in threshing; for cutting, hauling, rafting, or drawing logs, bolts, or other timber; for grading or improving any town lot or the street or sidewalk in front of or adjoining the same; for labor or skill expended for the improvement or safe-keeping of any article of personal property; and for service on vessels.

Who may have lien.—Contractors, subcontractors, material men, and all persons performing manual labor; mates and seamen of a ship; laundry proprietors.

Subject property.—The land upon which any building or improvement is constructed, or so much as may be required for convenient use and occupation, is subject to the lien, if owned by the person causing such construction at the commencement of the work, but only to the extent of his interest; vessels and their freightage; threshing machines, engines, wagons, etc.; logs and other timber; personal property lawfully in the hands of any mechanic, repair man, or caretaker; laundry work.

Amount of lien.—In general, for the value of the labor done and material furnished. A contractor's lien secures the amount named in the contract, such lien to operate in favor of all parties claiming recovery. No lien, except that of the contractor, may be diminished by any indebtedness or set-off in favor of the owner and against the contractor.

Contract.—Contracts involving a sum exceeding $1,000 must be in writing and must be filed in the office of the county recorder. Work must be done at the instance of the owner or of his agent, which term includes every contractor, subcontractor, architect, builder, or any person in charge of any mining claim or claims, whether as lessee or otherwise.

Work will be presumed to have been done at the instance of the

owner, unless within three days after he obtains knowledge of the fact that such work is begun or intended he gives notice that he will be responsible for the same.

Notice.—Notice may be given at any time by any claimant other than an original contractor, whereupon it shall be the owner's duty to withhold from the contractor an amount equal to the claim made. Personal property held under lien, may be sold after two months on ten days' notice.

Filing.—Within ten days after the completion of a contract, or within forty days after cessation from labor on any unfinished contract, the owner must file a notice setting forth dates and descriptions of property, work done, etc., or be estopped from making the defense that any lien was filed after the expiration of the time fixed. Every original contractor has sixty days, and other claimants have thirty days, after the filing of the above notice by the owner, in which to file liens. Liens on mining claims and city lots must be filed within thirty days after the completion of the work. All claims of lien must be filed within ninety days after the completion of the work for which they are claimed.

Limitation.—No lien binds any building, improvement, or mining claim for longer than ninety days after filing unless proceedings thereon have been commenced; or if a credit be given, within ninety days after such credit expires, which may in no case be longer than one year from the time the work was completed. Threshers' liens must be proceeded on within ten days and lumbermen's liens within thirty days after the completion of the labor for which claim is made. Liens on vessels continue for one year.

Rank.—Mechanics' liens are preferred to any lien or other incumbrance attaching subsequently to the commencement of the work for which given; also to any earlier incumbrance of which the lienholder had no notice and which was unrecorded at such commencement of work. Such liens have, among themselves, the following rank, and require satisfaction in the order named: First, liens of persons performing manual labor; second, liens of persons furnishing materials; third, liens of subcontractors; fourth, liens of original contractors. Liens on vessels are prior to all other claims.

Sources: Constitution; Code of Civil Procedure, sections 813 to 825, 1183 to 1202; Civil Code, sections 3051 to 3065.

DIGEST OF CONVICT LABOR LAWS.

Control.—A board of five directors appointed by the governor is charged with the management of the state prison and the employment of convicts. Monthly inspections by at least three directors are directed.

Boards of county supervisors have jurisdiction of the employment of county convicts.

Systems of employment.—The public-account, state-use, and public-works-and-ways systems are adopted. The letting of contracts for prison labor is forbidden.

Regulations.—The manufacture of jute fabrics, the crushing of rock for road material, and the manufacture of such articles, materials and supplies needed in any public institution of the state or political subdivision thereof are provided for. At least twenty convicts must be employed on the public roads at the state prisons.

Prison rules prescribe the number of hours of labor required in each and every day during a convict's term of imprisonment.

Punishments may be inflicted only by the order and under the direction of wardens.

Discharged prisoners receive their earnings, if any, and if this sum is not sufficient for present needs, each one receives $5, a suit of clothing, and transportation to the place of sentence or other place of equal cost of travel.

County convicts may be employed on public works and ways, or in other places for the benefit of the county.

Goods.—No convict-made goods may be sold in the state except those whose sale is specially sanctioned by law.

The sale of jute and hemp grain bags is at a price fixed by the prison directors on a basis prescribed by statute.

Crushed rock is sold on orders for highway and other purposes, at a price of not less than 30 cents per ton, preference being given to orders from the state bureau of highways.

Manufactured articles, materials and supplies to be sold to public institutions at prices to be fixed by prison directors and board of examiners.

Sources: Constitution; Penal Code, sections 679*a*, 1613, 1614, pages 890-896; acts of 1907, chapters 317, 473; acts of 1911, chapter 56.

DECISION UPHOLDING THE CONSTITUTIONALITY OF THE CHILD LABOR LAW.

Supreme Court of California, July 9, 1906.

(In Bank. Crim. No. 1322.)

IN THE MATTER OF THE APPLICATION OF J. M. SPENCER FOR A WRIT OF HABEAS CORPUS.

The petitioner was arrested and confined upon a charge of violating sections 2 and 4 of the act of February 20, 1905, regulating the employment and hours of labor of children and prohibiting the employment of illiterate minors and of minors under certain ages. (Stats. 1905, p. 11.) The return to the preliminary writ shows that the petitioner was arrested and taken into custody upon four several complaints, relating to four different children, each complaint charging him with employing a child under fourteen years of age in the workshop and boiler-room of a steamer, the child not then having a permit to work from the judge of the juvenile court of the county, and the time of such employment not being the time of the vacation of the public schools.

The second clause of section 2 of the act provides that no child under fourteen years of age shall be employed in any mercantile institution, office, laundry, manufactory, workshop, restaurant, hotel, or apartment house, or in the distribution or transmission of merchandise or messages; *provided*, that upon the sworn statement of the parent that the child is over twelve years of age and that the parent or parents are unable, from sickness, to labor, the judge of the juvenile court, in his discretion, may issue a permit allowing such child to work for a specific time; *and provided, further*, that during the time of the regular vacation of the public schools of the city or county, any child over twelve years of age may work at any of the prohibited occupations, upon a permit from the principal of the school attended by the child during the immediately preceding term. Section 4 of the act declares that a violation of any of the provisions of the act shall be a misdemeanor. The complaints charge violation of these provisions.

Several objections on constitutional grounds are made to the validity of the act. It is claimed that it is special law for the pun-

ishment of crime, where a general law could be made applicable, and therefore, contrary to sections 2 and 33 of article IV of the Constitution of California; that it is not of uniform operation, but is discriminatory; and hence in conflict with sections 11 and 21 of article I; and that it would deprive persons of the right to acquire and possess property, thus violating section 1 of article I of the State Constitution and the Fourteenth Amendment to the Constitution of the United States.

The presumption always is that an act of the legislature is constitutional, and when this depends on the existence, or non-existence, of some fact, or state of facts, the determination thereof is primarily for the legislature, and the courts will acquiesce in its decision, unless the error clearly appears. (*Bourland* vs. *Hildreth*, 26 Cal. 184; *University* vs. *Bernard*, 57 Cal. 612; *In re Madera Irr. Dist.*, 92 Cal. 310; *Sinking Fund Cases*, 99 U. S. 718; *Tiedman on Police Power*, Vol. I, p. 10, note; *Cooley, Const. Lim.*, 7th ed., 228.)

"Every possible presumption is in favor of the validity of a statute, and this continues until the contrary is shown beyond a rational doubt. One branch of the government can not encroach on the domain of another without danger. The safety of our institutions depends in no small degree on a strict observance of this salutary rule." (*Sinking Fund Cases, supra.*)

"The delicate act of declaring an act of the legislature unconstitutional and void should never be exercised unless there is a clear repugnance between the statute and the organic law. * * * In a doubtful case the benefit of the doubt is to be given to the legislature: but it is to be remembered that the doubt to which this rule of construction refers is a reasonable doubt as distinguished from vague conjecture or misgivings." (*Bourland* vs. *Hildreth, supra.*)

From their tender years, immature growth, and lack of experience and knowledge, minors are more subject to injury from excessive exertion and less capable of self-protection than adults. They are therefore peculiarly entitled to legislative protection, and form a class to which legislation may be exclusively directed without falling under the constitutional prohibitions of special legislation and unfair discrimination.

The first objection to the validity of the part of the section above stated is that it is discriminatory and specially because it does not prohibit such employment of minors in all occupations, but only in those specially mentioned; that work at other places, of which

saloons, barber shops, railroads, ferries, and warehouses are specified by counsel as instances, would be equally injurious, and that in order to be general and uniform they should be included in the prohibition. The objection is twofold: first, that the legislation constitutes an unfair discrimination against the particular trades mentioned; second, that it unduly and without reasonable cause restricts the right of minors to work at any and every occupation in which they may wish to engage. There is nothing in the act to indicate a purpose on the part of the legislature to make use of the laudable object of protecting children as a mere pretense under which to impose burdens upon some occupations or trades and favor others. It appears to have been framed in good faith and for the purpose of promoting the general welfare by protecting minors from injury by overwork and facilitating their attendance at schools. The legislature may undoubtedly forbid the employment of children under the age of fourteen years at any regular occupation if the interests of the children and the general welfare of society will be thereby secured and promoted. The power to forbid their employment in certain occupations and not in all depends on the question whether or not any appreciable number of children are employed in the callings not forbidden, and whether or not those callings are injurious to them, or less injurious than those forbidden. If certain occupations are especially harmful to young children and others are not so, there can be no serious doubt that it is within the power of the legislature to forbid their employment in one class and permit it in the other. The difference in the results would justify the classification with a view to the difference in the legislation. Also, if children are employed in certain occupations to their injury and are not employed at all in others, or so infrequently that the number is inappreciable and insignificant, the occupations regularly employing them have no ground to complain of discrimination. They compose the entire class to which the legislation is directed, the class which causes the injury to be prevented. And upon the facts assumed neither the children engaged in the occupation in which they are employed nor the persons would be affected by the prohibition as to other occupations. The preliminary questions as to the effect of the specified occupations on the children and the number of children engaged therein, are questions of fact for the legislature to ascertain and determine. It has determined that the facts exist to authorize the particular legislation. If any rational doubt exists as to the soundness of the legislative judgment upon the existence of the facts, that doubt must be

resolved in favor of the legislative action and the law must accordingly be held to be valid in these respects. The specifications of forbidden callings are broad and comprehensive. Even if these, which as counsel assert, are omitted from the classification, we can not say that a saloon is not a "mercantile institution," it being a place where merchandise is sold; nor that a barber shop is not a "workshop," it being a place where a handicraft is carried on; nor that ferries and railroads are not engaged in the "distribution or transmission of merchandise or messages." At all events, in view of the rule that a statute must be liberally construed to the end that it may be declared constitutional rather than unconstitutional (*People* vs. *Hayne*, 83 Cal. 117; 26 *Am. & Eng. Encyc. of Law*, 640), we would not give the description of forbidden occupations this narrow construction in order to make the law invalid. The decision of the legislature that the specified occupations are more injurious to children than others not mentioned and hence the subject of special regulation, and that they constitute practically all the injurious occupations in which children are employed at all, and therefore the only cases in which regulation is needed, is not so manifestly incorrect, not so beclouded with doubt concerning its accuracy, as to justify the court in declaring it unfounded and the law, consequently, invalid.

There is a proviso to this clause of the section, to the effect that if either parent of such child makes a sworn statement to the judge of the juvenile court of the county, that the child is over twelve years of age, and that the parent or parents are unable, from sickness, to labor, such judge, in his discretion, may issue a permit allowing such child to work for a time to be specified therein. There is no force to the objection that this discriminates against orphans and abandoned children. The exception allowed by the proviso is not made for the direct benefit of the child, but for the sick parent. It is a burden put upon the child because of the special necessity of his case which justifies the different provision respecting him. The legislature deems the necessity of allowing the child to work to aid in the support of the sick parent, sufficient to outweigh the benefits which would otherwise accrue from the education and protection of the child during such inability. If there are no parents whose necessities the child's labor could alleviate, the reason for this exception is wanting. The provision seems a reasonable one in view of the conditions upon which, alone, it can apply.

There is a further proviso or exception, to the effect that any

child over twelve years old may work at the prohibited occupations during the time of the regular vacations of the public schools of the city or county, upon a permit from the principal of the school attended by the child during the term next preceding such vacation. This does not, as counsel contends, give the principals of the public schools the exclusive power to give the contemplated permits. Its true meaning is that the permit is to be given by the principal of the school which the child has attended, whether the school is public or private, but that it can extend only to the time of the public school vacation. This act was approved February 20, 1905. Its provisions relating to attendance upon schools, and those of section 1 of the act of March 24, 1903 (Stats. 1903, 388), with the amendment of March 20, 1905 (Stats. 1905, 388), to said section 1 must be considered together. The act of 1903, in effect, requires all children to attend, either the public schools, or a private school, during at least five months of the time of the sessions of the public schools. The amendment of March 25, 1905, extends the time of such compulsory attendance so as to embrace the whole period of the public school session. Therefore, if the parents, guardians, or custodians of a child choose to send it to a private school, it must attend thereon at least during the time the public schools are in session. A permit may then be obtained for it to work during the vacation of the public schools, if its interests or necessities so require, without subjecting it to conditions substantially different from those affecting the children attending the public schools. There is no discrimination. The legislature has the power to make such reasonable regulations as these with respect to the time of the vacation of schools, whether public or private, in the interest of the public welfare and the welfare of the children.

A third clause of section 2 declares that no child under sixteen years of age shall work at any gainful occupation during the hours that the public schools are in session, unless such child can read English at sight and write simple English sentences, or is attending night school. The first clause of section 2 provides that no minor under sixteen shall work in any mercantile institution, office, laundry, manufacturing establishment, or workshop, between ten o'clock in the evening and six o'clock in the morning. Section 5 of the act further provides that nothing in the act is to be construed to prevent the employment of minors at agricultural, viticultural, horticultural or domestic labor, during the time the public schools are not in session, or during other than school hours. The petitioner's contention with respect to the first and last clause of

section 2 is that they constitute such important parts of the statute that it can not be presumed that the legislature would have adopted the other parts thereof it it had been aware of the invalidity of these particular provisions and hence the whole act must fall. We can not accede to this proposition. They are separable and independent provisions and are not so important to the entire scheme as to justify us in concluding that the legislature would have refused to adopt the other parts without these, and thereby to declare the entire statute invalid.

Nor can it be conceded that these provisions are invalid. The principles already discussed apply with equal force to the first clause of the section. The proviso concerning illiterate children is a reasonable regulation to prevent those having control of such children from working them to such an extent as to hinder them from acquiring, or endeavoring to acquire, at least the beginning of an education before arriving at the age of sixteen years. The exemption of domestic labor and the several kinds of farming from the operation of the act is not an unreasonable discrimination. Such work is generally carried on at the home and as a part of that general home industry which should not be too much discouraged, and it is usually under the immediate care and supervision of the parents or those occupying the place of parents, and hence is not liable to cause so much injury. These circumstances distinguish them from the prohibited industries and is a sufficient reason for the exemption.

We find no reasonable ground for declaring the law invalid.

The petition is denied and the petitioner remanded to the custody of the officer.

SHAW, J.

We concur:

SLOSS, J.; ANGELLOTTI, J.; LORIGAN, J.; BEATTY, C. J.

McFARLAND, J., *concurring*:

I concur in the judgment, and in what is said by Mr. Justice Shaw in his opinion; but I do not concur in some of the quotations which he makes from other cases, and particularly in that quotation in which it is stated that the presumption in favor of the validity of the statute "continues until the contrary is shown beyond a rational doubt." That is, in my opinion, too strong a statement of a rule.

McFARLAND, J.

DECISION UPHOLDING THE CONSTITUTIONALITY OF SECTION 273, PENAL CODE.

Supreme Court of California, July 9, 1906.

(In Bank. Crim. No. 1331.)

IN THE MATTER OF THE APPLICATION OF HENRY WEBER FOR A WRIT OF HABEAS CORPUS.

The petitioner was arrested and confined for an alleged violation of section 273 of the Penal Code. The return shows that he is in custody upon separate complaints relating to different children. Each complaint charges that the defendant did wilfully and unlawfully take, receive, hire, employ and use a certain male child, naming him, under the age of sixteen years, in the business of scaling the boilers of a steamer, the said business being then and there dangerous to the life and limb of said child. The petition for a writ of habeas corpus is based upon the proposition that the law under which the complaint was made is unconstitutional and void. Section 273 refers to the preceding section 272, and it is necessary to state the substance, at least, of both sections.

Section 272, so far as material, is as follows: "Any person * * * having the care, custody, or control of any child under the age of sixteen years, who exhibits, uses, or employs, or in any manner, or under any pretense, sells, apprentices, gives away, lets out, or disposes of any such child to any person, * * * for or in any business, exhibition, or vocation, injurious to the health, or dangerous to the life or limb of such child, or in or for the vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, acrobat, contortionist, or rider, in any place whatsoever, or for or in any obscene, indecent or immoral purposes, exhibition or practice whatsoever, or for or in any mendicant or wandering business whatsoever, or who causes, procures, or encourages such child to engage therein, is guilty of a misdemeanor. * * * Nothing in this section contained applies to or affects the employment or use of any such child, as a singer or musician in any church, school, or academy, or the teaching or learning of the science or practice of music; or the employment of any child as a

musician at any concert or other musical entertainment, on the written consent of the mayor of the city or president of the board of trustees of the city or town where such concert or entertainment takes place." (Stats. 1905, p. 759.)

Section 273 is as follows: "Every person who takes, receives, hires, employs, uses, exhibits, or has in custody, any child under the age, and for any of the purposes mentioned in the preceding section, is guilty of a like offense and punishable by a like punishment as therein provided." (Stats. 1905, p. 759.)

The contention of the petitioner is that these provisions contain an arbitrary and unreasonable classification, and, consequently, not of uniform operation, and that it constitutes a special law for the punishment of crimes, where a general law could be made applicable. It is said that only a certain portion of the minor children of the State are affected by the act, namely, those who are under sixteen years of age, and that this is an arbitrary discrimination between those who are over that age and those who are under that age; that any child over the age may enjoy his natural privilege of working for his own support as he pleases, while those under that age are prohibited therefrom. There is no sound reason for any such criticism. The same reasoning might be applied to a large number of laws which are universally conceded to be valid and constitutional. The law providing that a male person under twenty-one years of age is a minor, subject to the legal disabilities of minority, might be rendered unconstitutional by the same process of reasoning. It is competent for the legislature to provide regulations for the protection of children of immature years. The growth of a child is gradual and the age of maturity varies with different children. It is impossible for any person to fix the exact time when a child is capable of protecting itself. The legislative judgment in regard to the age at which such regulations shall become applicable to the child can not be interfered with by the courts.

It is also stated that the law makes an unfair discrimination by allowing the employment of children as singers or musicians in churches, schools, or academies. The ground of this objection is that such employment, so far as the court can see, may be as injurious to the health or morals or as dangerous to the life or limb of the child as those which are prohibited in the law, and that no prohibition is lawful under the constitution unless it extends to all employments which are equally injurious. In matters of this kind the legislature has large discretion. It must determine the degree of injury to health and morals which the different kinds of em-

ployment inflict upon the child, and the corresponding necessity for protecting the child from the effects thereof, and unless its decision in that regard is manifestly unreasonable, there is no ground for judicial interference. We do not think the law in question so unreasonable as to require us to hold it unconstitutional.

The petition is denied and the petitioner is remanded to the custody of the officer.

SHAW, J.

We concur:

SLOSS, J.; ANGELLOTTI, J.; HENSHAW, J.; MCFARLAND, J.; LORIGAN, J.; BEATTY, C. J.

DECISION UPHOLDING THE CONSTITUTIONALITY OF THE EIGHT HOUR LAW IN UNDERGROUND MINES AND SMELTERS.

Supreme Court of California, December 23, 1909.

(In Bank. Crim. No. 1539.)

IN THE MATTER OF THE APPLICATION OF FRED J. MARTIN FOR A WRIT OF HABEAS CORPUS.

SLOSS, J. Upon the application of Fred F. Martin, a writ of habeas corpus was issued by this court. Martin has been arrested upon a charge of violating the terms of a statute entitled "An act regulating the hours of employment in underground mines and in smelting and reduction works" (St. 1909, p. 279, c. 181), approved March 10, 1909. The provisions of the act are as follows:

SECTION 1. That the period of employment for all persons who are employed or engaged to work in underground mines in search of minerals, whether base or precious, or who are engaged in such underground mines for other purposes, or who are employed or engaged in other underground workings whether for the purpose of tunneling, making excavations or to accomplish any other purpose or design, or who are employed in smelters and other institutions for the reduction or refining of ores or metals, shall not exceed eight hours within any twenty-four hours, and the hours of employment in such employment or work day shall be consecutive, excluding, however, any intermission of time for lunch or meals; provided that,

in the case of emergency where life or property is in imminent danger, the period may be a longer time during the continuance of the exigency or emergency.

SEC. 2. Any person who shall violate any provision of this act, and any person who as foreman, manager, director or officer of a corporation, or as the employer or superior officer of any person, shall command, persuade or allow any person to violate any provision of this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300.00), or by imprisonment of not more than three months. And the court shall have discretion to impose both fine and imprisonment as herein provided.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

It is not questioned by the petitioner that the complaint which furnished the basis for his arrest stated a violation of the terms of the act. His position is, however, that the act is void as being in contravention of constitutional provisions.

The ground of attack usually advanced in cases of this character, namely, that the statute is in conflict with the guaranties of the fourteenth amendment to the Constitution of the United States, is not here urged. Indeed, such contention is hardly open to the petitioner in view of the decision in *Holden* vs. *Hardy*, 169 U. S. 366, 18 Sup. Ct. 383, 42 L. Ed. 780, where the Supreme Court of the United States decided that a statute of Utah, substantially identical in its main features with the one before us, did not deprive persons affected by it of any right conferred by the Federal Constitution. Conceding the binding force of that decision as an adjudication of all federal questions involved, the petitioner here bases his claim to immunity from prosecution upon certain provisions of the Constitution of this State.

Before proceeding to a consideration of the particular points made in this connection, it may be well to briefly state the basis of the decision in *Holden* vs. *Hardy*, since, in our opinion, the points there decided go far toward answering the main objections predicated upon the State Constitution. The right on the part of the State to restrict the freedom of citizens to make contracts concerning their callings or occupations was there upheld with respect to the particular callings covered by the Utah statute, *i. e.*, mining and working in smelting and reduction works, upon the ground that the restriction in question was a proper exercise of the police power for the preservation of the public health. "The right of contract," says the court, "is itself subject to certain limitations which the State may lawfully impose in the exercise of its police powers.

While this power is inherent in all governments, it has doubtless been greatly expanded in its application during the past century, owing to an enormous increase in the number of occupations which are dangerous, or so far detrimental to the health of employees as to demand special precautions for their well-being and protection, or the safety of adjacent property. While this court has held * * * that the police power can not be put forward as an excuse for oppressive and unjust legislation, it may be lawfully resorted to for the purpose of preserving the public health, safety, or morals, or the abatement of public nuisances, and a large discretion is necessarily vested in the legislature to determine, not only what the interests of the public require, but what measures are necessary for the protection of such interests." Again, in the same opinion, it is said that: "While the general experience of mankind may justify us in believing that men may engage in ordinary employments more than eight hours per day without injury to their health, it does not follow that labor for the same length of time is innocuous when carried on beneath the surface of the earth, where the operative is deprived of fresh air and sunlight, and is frequently subjected to foul atmosphere and a very high temperature, or to the influence of noxious gases, generated by the processes of refining or smelting." The right to limit the hours of labor generally was not involved in *Holden* vs. *Hardy*. No such right was asserted. It was, however, decided that the particular occupations affected by the act possessed such elements of danger and risk to the employee that the legislature might reasonably conclude that in such occupations a restriction of the time of labor was necessary for the protection of those engaged in such labor.

The limitations of the doctrine are well illustrated by the subsequent decision in *Lochner* vs. *New York*, 138 U. S. 45, 25 Sup. Ct. 539, 49 L. Ed. 937, in which the court, reversing the decision of the Court of Appeals of New York in *People* vs. *Lochner*, 177 N. Y. 145, 69 N. E. 373, 101 Am. St. Rep. 773, declared invalid a law limiting the hours of labor of bakers. The real ground of that decision is, we think, to be found in the following extract from the opinion of Mr. Justice Peckham: "We think that there can be no fair doubt that the trade of a baker, in and of itself, is not an unhealthy one to that degree which would authorize the legislature to interfere with the right to labor, and with the right of free contract on the part of the individual, either as employer or employé." The decision in the *Lochner* case was by a bare majority of the court, but the majority itself recognized the correctness of the

decision in *Holden* vs. *Hardy* and distinguished that case upon the ground that the callings involved in the two statutes were essentially different.

It follows, from a comparison of these two decisions, that, in determining whether an act limiting the hours of labor in any occupation is in violation of the provisions of the Federal Constitution, the primary consideration is whether or not the occupation possesses such characteristics of danger to the health of those engaged in it as to justify the legislature in concluding that the welfare of the community demands a restriction.

And this brings us to the petitioner's contention that the act is violative of the provisions of the State Constitution respecting special legislation. It is contended that the act violates subdivision 2 of section 25 of article 4, in that it is a special law for the punishment of a crime or misdemeanor created by said act; that it violates subdivision 33 of said section, in that it is a special law passed in a case where a general law can be made applicable; that it violates section 21 of article 1, in that it grants to citizens or classes of citizens privileges or immunities which are not, upon the same terms, granted to all citizens; that it violates section 11 of article 1 as not being of uniform operation. These various specifications are in effect directed to the same point, namely, that the law arbitrarily selects for its operation a special class of persons. It is, we think, unnecessary at this date to cite many authorities in support of the proposition, that a law is not special or lacking in uniformity merely because it does not apply to every person or subject within the State. "An act to be general in its scope need not include all classes of individuals in the State; it answers the constitutional requirements if it relates to and operates uniformly upon the whole of any single class." *Abeel* vs. *Clark*, 84 Cal. 226, 24 Pac. 383. The classification created for the purposes of legislation must, of course, be a reasonable one. The test of its propriety is well stated in *City of Pasadena* vs. *Stimson*, 91 Cal. 238, 27 Pac. 604, where the court declared "that, although a law is general and constitutional when it applies equally to all persons embraced in a class founded upon some natural or intrinsic or constitutional distinction, it is not general or constitutional if it confers particular privileges or imposes peculiar disabilities or burdensome conditions in the exercise of a common right upon a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law." But in view of the decision in *Holden* vs. *Hardy*, based as it was upon the fact that the

occupations covered by this act were so peculiarly dangerous as to justify special regulation, how can it be said that the legislature in selecting these occupations and applying to them provisions designed to protect the health of those engaged in them was making "a class of persons arbitrarily selected from the general body of those who stand in precisely the same relation to the subject of the law?" The very grounds which led the Supreme Court of the United States to hold that the Utah statute did not deprive any person of life, liberty, or property without due process of law, nor deny to any person the equal protection of the laws, requires the conclusion that the legislation was not special within the meaning of our State Constitution. See *Julien* vs. *Model B. L. & I. Co.*, 116 Wis. 79, 92 N. W. 561, 61 L. R. A. 668. For if it could be said that the limitation of the hours of labor of miners and those engaged in smelting and reduction works could not be supported by any natural or intrinsic distinction between those occupations and others, the legislation would, for the reasons declared in *Lochner* vs. *New York*, necessarily fall before the provisions of the Federal Constitution.

The appellant relies with great confidence upon the decision of the Supreme Court of Colorado in *In re Morgan*, 26 Colo. 415, 58 Pac. 1071, 47 L. R. A. 52, 77 Am. St. Rep. 269. In that case it was held that an act similar to the one under consideration was unconstitutional, this conclusion being based upon the ground, among others, that the law was "class legislation." We have not had access to the constitution of Colorado and are not informed of its precise terms regarding general and special legislation. It may be observed, however, that some of the grounds relied on by the Colorado court for its decision are clearly in conflict with the views of the Supreme Court of the United States in the *Holden* case. In other states, having constitutional provisions directed against the passing of special laws, legislation of this character has been upheld. *Ex parte Boyce*, 27 Nev. 299, 75 Pac. 1, 65 L. R. A. 47; *Ex parte Kair*, 28 Nev. 127, 80 Pac. 463, 113 Am. St. Rep. 817; *State* vs. *Cantwell*, 179 Mo. 245, 78 S. W. 569.

It is argued by the appellant that the act is special because it does not include in its scope many occupations other than mining which are equally dangerous to the health of the persons engaged in them. Reference is made, for example, to marble cutters and marble drillers, diamond cutters, workers in furnaces and laundries, men employed in wine cellars, breweries, and ice houses, men in boiler works, match makers, cleaners of clothes, makers of white

lead, of china and earthenware, and many others. The argument is, apparently, that any law is special which does not include all of these occupations. This view is obviously unsound. Whether these other occupations present the same dangers to health as those involved in mining, etc., and whether, if they do, these dangers can best be met by restricting the hours of labor, are primarily questions for the legislature. The legislature has determined one or both of them in the negative by enacting this law. The selection of the businesses requiring regulation is confided to the legislative discretion, and this discretion is not subject to judicial review unless it clearly appears to have been exercised arbitrarily and without any show of good reason. It certainly can not be justly said to be apparent that each or any of the trades instanced by counsel is, in its effect upon the health of the workers, identical with the occupations covered by the act under discussion, nor that the most appropriate method of counteracting any injurious effects pertaining to any of them is necessarily the same as that found to be suitable for miners and men working in smelting and reduction works. In other words, the law is not rendered special by the mere fact that it does not cover every subject which the legislature might conceivably have included in it. It is enough that the subjects covered possess such intrinsic peculiarities as to justify the legislative determination that those subjects require special enactment.

It may be questioned whether, in view of the title of the act, the limitation of hours applies to all underground work or only to that performed in mines. But if we assume, with petitioner, that only work in mines is covered, the act is not thereby rendered obnoxious to the constitutional provision against special legislation. This point was made in *State* vs. *Cantwell, supra*, and was met by the answer that the discrimination between work in mines, and that in other underground diggings was justified by the fact that mining is a permanent business in which men are engaged steadily for long periods of time, whereas other underground diggings are ordinarily temporary and irregular in duration and for that reason do not require the same measure of regulation.

The act and the title thereof do not embrace more than one subject: Const. art. 4, § 24; *Ex parte Boyce, supra*. It is designed, as we have said, for the protection of the health of persons engaged in occupations regarded by the legislature as dangerous. Such occupations as in the legislative view were subject to the same kind of danger and which require the same kind of regulation could properly be joined together in one act. We may remark the incon-

sistency between the argument that the act is void because it covers different kinds of employment and petitioner's other contention that the act is void because it does not cover a greater number of employments.

Petitioner attacks the provision of the act that the hours of employment shall be consecutive (excluding, however, any intermission of time for lunch or meals). We are not prepared to say that this limitation bears no reasonable relation to the protection of the health of the workmen. The legislature may have considered that persons working in underground mines, in smelters, or in reduction works required for their protection, not only that the total number of hours of employment in a day should be limited, but that the hours of labor should be so adjusted as to allow the employee a long consecutive period for rest and recreation. This is a question of legislative policy with which the courts have no concern.

Upon the whole case, we are satisfied that the act is a valid exercise of the legislative power, and that the petitioner is properly held.

It is ordered that the writ be dismissed and the petitioner remanded to the custody of the constable.

We concur: SHAW, J.; ANGELLOTTI, J.; LORIGAN, J.; MELVIN, J.; HENSHAW, J.

Crim. No. 1539. Construction.

"The limitation of time is to be construed as referring to the time when men are actualy engaged in work, not when they are going to or from their work."

Crim. No. 1540. Construction.

A quartz mill comes clearly within the phrase "smelters and other institutions for the reduction or refining of ores or metals."

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